

Deductions From Gross Total Income

Learning Objectives

After studying this chapter, you would be able to understand –

- ◆ the types of deductions allowable from gross total income
- ◆ what are the permissible deductions in respect of payments
- ◆ what are the permissible deductions in respect of incomes
- ◆ what is the deduction allowable in the case of a person with disability

1 General Provisions

As we have seen earlier, section 10 exempts certain incomes. Such income are excluded from total income and do not enter into the computation process at all. On the other hand, Chapter VI-A contains deductions from gross total income. The important point to be noted here is that if there is no gross total income, then no deductions will be permissible. This Chapter contains deductions in respect of certain payments, deductions in respect of certain incomes and other deductions.

Section 80A: (i) Section 80A(1) provides that in computing the total income of an assessee, there shall be allowed from his gross total income, the deductions specified in sections 80C to 80U.

(ii) According to section 80A(2), the aggregate amount of the deductions under this chapter shall not, in any case, exceed the gross total income of the assessee. Thus, an assessee cannot have a loss as a result of the deduction under Chapter VI-A and claim to carry forward the same for the purpose of set-off against his income in the subsequent year.

(iii) Section 80A(3) provides that in the case of AOP/BOI, if any deduction is admissible under section 80G/80GGA/80GGC/80-IA/80-IB/80-IC/80-ID/80-IE, no deduction under the same section shall be made in computing the total income of a member of the AOP or BOI in relation to the share of such member in the income of the AOP or BOI.

(iv) The profits and gains allowed as deduction under section 10AA or under any provision of Chapter VIA under the heading "C.-Deductions in respect of certain incomes" in any assessment year, shall not be allowed as deduction under any other provision of the Act for such assessment year [Sub-section (4)];

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- (v) The deduction, referred to in (iv) above, shall not exceed the profits and gains of the undertaking or unit or enterprise or eligible business, as the case may be [Sub-section (4)];
- (vi) No deduction under any of the provisions referred to in (iv) above, shall be allowed if the deduction has not been claimed in the return of income [Sub-section (5)];
- (vii) The transfer price of goods and services between such undertaking or unit or enterprise or eligible business and any other business of the assessee shall be determined at the market value of such goods or services as on the date of transfer [Sub-section (6)].
- (viii) For this purpose, the expression "market value" has been defined to mean,-
 - (a) in relation to any goods or services sold or supplied, the price that such goods or services would fetch if these were sold by the undertaking or unit or enterprise or eligible business in the open market, subject to statutory or regulatory restrictions, if any;
 - (b) in relation to any goods or services acquired, the price that such goods or services would cost if these were acquired by the undertaking or unit or enterprise or eligible business from the open market, subject to statutory or regulatory restrictions, if any;
- (ix) Where a deduction under any provision of this Chapter under the heading "C – Deductions in respect of certain incomes" is claimed and allowed in respect of the profits of such specified business for any assessment year, no deduction under section 35AD is permissible in relation to such specified business for the same or any other assessment year.

In short, once the assessee has claimed the benefit of deduction under section 35AD for a particular year in respect of a specified business, he cannot claim benefit under Chapter VI-A under the heading "C.-Deductions in respect of certain incomes" for the same or any other year and vice versa.

Section 80AB: This section provides that for the purpose of calculation of deductions specified in Chapter VI-A under the heading "C - Deductions in respect of certain incomes", the net income computed in accordance with the provisions of the Act (before making any deduction under Chapter VI-A) shall alone be regarded as income received by the assessee and which is included in his gross total income. Accordingly, the deductions specified in the aforesaid sections will be calculated with reference to the net income as computed in accordance with the provisions of the Act (before making deduction under Chapter VI-A) and not with reference to the gross amount of such income. This is notwithstanding anything contained in the respective sections of Chapter VI-A.

Section 80AC: Furnishing return of income on or before due date mandatory for claiming exemption under sections 80-IA, 80-IAB, 80-IB, 80-IC, 80-ID and 80-IE

- (i) Section 80AC stipulates compulsory filing of return of income on or before the due date specified under section 139(1), as a pre-condition for availing benefit under the following sections –
 - (1) Section 80-IA applicable to undertakings or enterprises engaged in infrastructure development, etc.

- (2) Section 80-IAB applicable to undertakings or enterprises engaged in any business of developing a special economic zone.
- (3) Section 80-IB applicable to certain industrial undertakings other than infrastructure development undertakings.
- (4) Section 80-IC applicable to certain undertakings or enterprises in certain special category States.
- (5) Section 80-ID applicable to undertakings engaged in the business of hotels and convention centres in specified area.
- (6) Section 80-IE applicable to certain undertakings in North-Eastern States.
- (ii) The effect of this provision is that in case of failure to file return of income on or before the stipulated due date, the undertakings would lose the benefit of deduction under these sections.

Section 80B(5): "Gross total income" means the total income computed in accordance with the provisions of the Act without making any deduction under Chapter VI-A. "Computed in accordance with the provisions of the Act" implies—

- (i) that deductions under appropriate computation section have already been given effect to;
- (ii) that income of other persons, if includible under sections 60 to 64, has been included;
- (iii) the intra head and/or inter head losses have been adjusted; and
- (iv) that unabsorbed business losses, unabsorbed depreciation etc., have been set-off.

Let us first consider the deductions allowable in respect of certain payments.

2. Deduction in respect of payments

2.1 Deduction in respect of investment in specified assets [Section 80C]

- (i) Section 80C provides for a deduction from the Gross Total Income, of savings in specified modes of investments.
- (ii) Deduction under section 80C is available only to an individual or HUF.
- (iii) The maximum permissible deduction under section 80C is ₹ 1,50,000.
- (iv) The following are the investments/contributions eligible for deduction –
 - (1) Premium paid on insurance on the life of the individual, spouse or child (minor or major) and in the case of HUF, any member thereof. This will include a life policy and an endowment policy.

In respect of policies issued before 1.4.2012

However, where the annual premium on insurance policies, other than a contract for deferred annuity, issued on or before 31.3.2012, exceeds 20% of the actual capital sum

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assured, only the amount of premium as does not exceed 20% will qualify for rebate.

For the purpose of calculating the actual capital sum assured under this clause,

- (a) the value of any premiums agreed to be returned or
- (b) the value of any benefit by way of bonus or otherwise, over and above the sum actually assured,

shall not be taken into account.

In respect of policies issued on or after 1.4.2012

However, the deduction under section 80C for premium or other payment made on insurance policy, other than a contract for a deferred annuity, shall be restricted to the 10% of the actual sum assured, in case the insurance policy is issued on or after 1st April, 2012.

Also, *Explanation* to section 80C(3A) has been introduced to provide that, in respect of the life insurance policies to be issued on or after 1st April, 2012, the actual capital sum assured shall mean the minimum amount assured under the policy on happening of the insured event at any time during the term of the policy, not taking into account -

- (1) the value of any premium agreed to be returned; or
- (2) any benefit by way of bonus or otherwise over and above the sum actually assured which is to be or may be received under the policy by any person.

In effect, in case the insurance policy has varied sum assured during the term of policy then the minimum of the sum assured during the life time of the policy shall be taken into consideration for calculation of the "actual capital sum assured" for the purpose of section 80C, in respect of life insurance policies to be issued on or after 1st April, 2012.

In respect of policies issued on or after 1.4.2013

Premium paid in respect of a life insurance policy issued on or after 1st April, 2013, where the insurance is on the life of any person, who is –

- (1) a person with disability or person with severe disability as referred to in section 80U; or
- (2) suffering from disease or ailment as specified in the rules made under section 80DDB,

would qualify for deduction to the extent of 15% of minimum capital sum assured. In respect of other policies, the deduction of premium paid would continue to be restricted to 10% of minimum capital sum assured.

The following is a tabular summary of the exemption available under section 10(10D) and deduction allowable under section 80C *vis-à-vis* the date of issue of such policies –

	Exemption u/s 10(10D)	Deduction u/s 80C
In respect of policies issued between 1.4.2003 and 31.3.2012	Any sum received under a LIP including the sum allocated by way of bonus is exempt. However, exemption would not be available if the premium payable for any of the years during the term of the policy exceeds 20% of "actual capital sum assured".	Premium paid to the extent of 20% of "actual capital sum assured".
In respect of policies issued on or after 1.4.2012 but before 1.4.2013	Any sum received under a LIP including the sum allocated by way of bonus is exempt. However, exemption would not be available if the premium payable for any of the years during the term of the policy exceeds 10% of "minimum capital sum assured" under the policy on the happening of the insured event at any time during the term of the policy.	Premium paid to the extent of 10% of "minimum capital sum assured"
In respect of policies issued on or after 1.4.2013	(a) Where the insurance is on the life of a person with disability or severe disability as referred to in section 80U or a person suffering from disease or ailment as specified under section 80DDB.	
	Any sum received under a LIP including the sum allocated by way of bonus is exempt. However, exemption would not be available if the premium payable for any of the years during the term of the policy exceeds 15% of "minimum capital sum assured" under the policy on the happening of the insured event at any time during the term of the policy.	Premium paid to the extent of 15% of "minimum capital sum assured"
	(b) Where the insurance is on the life of any person, other than mentioned in (a) above	
	Any sum received under a LIP including the sum allocated by way of bonus is exempt. However, exemption would not be available if the premium payable for any of the years during the term of the policy exceeds 10% of "minimum capital sum assured" under the policy on the happening of the insured event at any time during the term of the policy.	Premium paid to the extent of 10% of "minimum capital sum assured".

Illustration 1

Compute the eligible deduction under section 80C for A.Y.2015-16 in respect of life insurance premium paid by Mr. Ganesh during the P.Y.2014-15, the details of which are given hereunder -

	<i>Date of issue of policy</i>	<i>Person insured</i>	<i>Actual capital sum assured (₹)</i>	<i>Insurance premium paid during 2014-15 (₹)</i>
(i)	1/4/2011	Self	2,00,000	50,000
(ii)	1/5/2012	Spouse	1,50,000	20,000
(iii)	1/6/2013	Handicapped Son (section 80U disability)	4,00,000	80,000

Solution

	Date of issue of policy	Person insured	Actual capital sum assured	Insurance premium paid during 2014-15	Deduction u/s 80C for A.Y.2015-16	Remark (restricted to % of sum assured)
(i)	1/4/2011	Self	2,00,000	50,000	40,000	20%
(ii)	1/5/2012	Spouse	1,50,000	20,000	15,000	10%
(iii)	1/6/2013	Handicapped Son (section 80U disability)	4,00,000	80,000	60,000	15%
				Total	1,15,000	

- (2) Premium paid to effect and keep in force a contract for a deferred annuity on the life of the assessee and/or his or her spouse or child, provided such contract does not contain any provision for the exercise by the insured of an option to receive cash payments in lieu of the payment of the annuity.

It is pertinent to note here that a contract for a deferred annuity need not necessarily be with an insurance company. It follows therefore that such a contract can be entered into with any person.

- (3) Amount deducted by or on behalf of the Government from the salary of a Government employee for securing a deferred annuity or making provisions for his spouse or children. The excess, if any, over one-fifth of the salary is to be ignored.
- (4) Contributions to any provident fund to which the Provident Funds Act, 1925 applies.
- (5) Contributions made to any Provident Fund set up by the Central Government and notified in his behalf (i.e., the Public Provident Fund established under the Public Provident Fund

Scheme, 1968). Such contribution can be made in the name of any persons mentioned in (1) above. The maximum limit for deposit in PPF is ₹ 1,50,000 in a year.

- (6) Contribution by an employee to a recognised provident fund.
- (7) Contribution by an employee to an approved superannuation fund
- (8) Subscription to any such security of the Central Government or any such deposit scheme as the Central Government as may notify in the Official Gazette.
- (9) Subscription to any Savings Certificates under the Government Savings Certificates Act, 1959 notified by the Central Government in the Official Gazette (i.e. National Savings Certificate (VIII Issue) issued under the Government Savings Certificates Act, 1959).
- (10) Contributions in the name of any person specified in (1) above for participation in the Unit-linked Insurance Plan 1971.
- (11) Contributions in the name of any person mentioned in (1) above for participation in any Unit linked Insurance Plan of the LIC Mutual Fund, referred to in section 10(23D) in this behalf.
- (12) Contributions to approved annuity plans of LIC (New Jeevan Dhara and New Jeevan Akshay, New Jeevan Dhara I and New Jeevan Akshay I, II and III) or any other insurer (Tata AIG Easy Retire Annuity Plan of Tata AIG Life Insurance Company Ltd.) as the Central Government may, by notification in the Official Gazette, specify in this behalf.
- (13) Subscription to any units of any mutual fund referred to in section 10(23D) or from the Administrator or the specified company under any plan formulated in accordance with such scheme notified by the Central Government;
- (14) Contribution by an individual to a pension fund set up by any Mutual Fund referred to in section 10(23D) or by the Administrator or the specified company as the Central Government may specify (i.e. UTI-Retirement Benefit Pension Fund set up by the specified company referred to in section 2(h) of the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002 as a pension fund).

Specified company means a company formed and registered under the Companies Act, 1956 and whose entire capital is subscribed by such financial institutions or banks as may be specified by the Central Government, by notification in the Official Gazette, for the purpose of transfer and vesting of the undertaking

“Administrator” means a person or a body of persons appointed as Administrator by the Central Government. The Central Government shall appoint a person or a body of persons, as the “Administrator of the specified undertaking of the Unit Trust of India” for the purpose of taking over the administration thereof and the Administrator shall carry on the management of the specified undertaking of the Trust for and on behalf of the Central Government.

“Specified undertaking” includes all business, assets, liabilities and properties of the Trust representing and relatable to the schemes and Development Reserve Fund.

- (15) Subscription to any deposit scheme or contribution to any pension fund set up by the National Housing Bank i.e., National Housing Bank (Tax Saving) Term Deposit Scheme, 2008.
- (16) Subscription to any such deposit scheme of a public sector company which is engaged in providing long-term finance for construction, or purchase of houses in India for residential purposes or any such deposit scheme of any authority constituted in India by or under any law enacted either for the purpose of dealing with and satisfying the need for housing accommodation or for the purpose of planning, development or improvement of cities, towns and villages or for both. The deposit scheme should be notified by the Central Government. The Central Government has, vide *Notification No.2/2007 dated 11.1.2007*, specified the public deposit scheme of HUDCO, subscription to which would qualify for deduction under section 80C.
- (17) Payment of tuition fees by an individual assessee at the time of admission or thereafter to any university, college, school or other educational institutions within India for the purpose of full-time education of any two children of the individual. This benefit is only for the amount of tuition fees for full-time education and shall not include any payment towards development fees or donation or payment of similar nature and payment made for education to any institution situated outside India.
- (18) Any payment made towards the cost of purchase or construction of a new residential house property. The income from such property –
 - (i) should be chargeable to tax under the head "Income from house property";
 - (ii) would have been chargeable to tax under the head "Income from house property" had it not been used for the assessee's own residence.

The approved types of payments are as follows:

- (i) Any installment or part payment of the amount due under any self-financing or other schemes of any development authority, Housing Board or other authority engaged in the construction and sale of house property on ownership basis; or
- (ii) Any installment or part payment of the amount due to any company or a cooperative society of which the assessee is a shareholder or member towards the cost of house allotted to him; or
- (iii) Repayment of amount borrowed by the assessee from:
 - (a) The Central Government or any State Government;
 - (b) Any bank including a co-operative bank;
 - (c) The Life Insurance Corporation;
 - (d) The National Housing Bank;
 - (e) Any public company formed and registered in India with the main object of carrying on the business of providing long-term finance for construction or purchase of houses in India for residential purposes which is eligible for

deduction under section 36(1)(viii);

- (f) Any company in which the public are substantially interested or any cooperative society engaged in the business of financing the construction of houses;
 - (g) The assessee's employer, where such employer is an authority or a board or a corporation or any other body established or constituted under a Central or State Act;
 - (h) the assessee's employer where such employer is a public company or public sector company or a university established by law or a college affiliated to such university or a local authority or a co-operative society.
- (iv) Stamp duty, registration fee and other expenses for the purposes of transfer of such house property to the assessee.

Inadmissible payments: However, the following amounts do not qualify for rebate:

- (i) admission fee, cost of share and initial deposit which a shareholder of a company or a member of a co-operative society has to pay for becoming a shareholder or member; or
 - (ii) the cost of any addition or alteration or renovation or repair of the house property after the completion of the house or after the house has been occupied by the assessee or any person on his behalf or after it has been let out; or
 - (iii) any expenditure in respect of which deduction is allowable under section 24.
- (19) Subscription to equity shares or debentures forming part of any eligible issue of capital approved by the Board on an application made by a public company or as subscription to any eligible issue of capital by any public financial institution in the prescribed form.

Eligible issue of capital means an issue made by a public company formed and registered in India or a public financial institution and the entire proceeds of the issue are utilised wholly and exclusively for the purposes of any business referred to in section 80-IA(4).

A lock-in period of three years is provided in respect of such equity shares or debentures. In case of any sale or transfer of shares or debentures within three years of the date of acquisition, the aggregate amount of deductions allowed in respect of such equity shares or debentures in the previous year or years preceding the previous year in which such sale or transfer has taken place shall be deemed to be the income of the assessee of such previous year and shall be liable to tax in the assessment year relevant to such previous year.

A person shall be treated as having acquired any shares or debentures on the date on which his name is entered in relation to those shares or debentures in the register of members or of debenture-holders, as the case may be, of the public company.

- (20) Subscription to any units of any mutual fund referred to in section 10(23D)] and approved by the Board on an application made by such mutual fund in the prescribed form.

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It is necessary that such units should be subscribed only in the eligible issue of capital of any company.

(21) Investment in term deposit.

- (1) for a period of not less than five years with a scheduled bank; and
- (2) which is in accordance with a scheme framed and notified by the Central Government in the Official Gazette

now qualifies as an eligible investment for availing deduction under section 80C.

Scheduled bank means -

- (1) the State Bank of India constituted under the State Bank of India Act, 1955, or
 - (2) a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959, or
 - (3) a corresponding new bank constituted under section 3 of the -
 - (a) Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, or
 - (b) Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980, or
 - (4) any other bank, being a bank included in the Second Schedule to the Reserve Bank of India Act, 1934.
- (22) Subscription to such bonds issued by NABARD (as the Central Government may notify in the Official Gazette).
- (23) five year time deposit in an account under Post Office Time Deposit Rules, 1981; and
- (24) deposit in an account under the Senior Citizens Savings Scheme Rules, 2004.

Termination of Insurance Policy or Unit Linked Insurance Plan or transfer of House Property or withdrawal of deposit:

Where, in any previous year, an assessee:

- (i) terminates his contract of insurance referred to in (1) above, by notice to that effect or where where the contract ceases to be in force by reason of not paying the premium, by not reviving the contract of insurance, -
 - (a) in case of any single premium policy, within two years after the date of commencement of insurance; or
 - (b) in any other case, before premiums have been paid for two years; or
- (ii) terminates his participation in any Unit Linked Insurance Plan referred to in (10) or (11) above, by notice to that effect or where he ceases to participate by reason of failure to pay any contribution, by not reviving his participation, before contributions in respect of such participation have been paid for five years, or
- (iii) transfers the house property referred to in (18) above, before the expiry of five years from the end of the financial year in which possession of such property is obtained by him, or receives

back, whether by way of refund or otherwise, any sum specified in (18) above, then, no deduction will be allowed to the assessee in respect of sums paid during such previous year and the total amount of deductions of income allowed in respect of the previous year or years preceding such previous year, shall be deemed to be income of the assessee of such previous year and shall be liable to tax in the assessment year relevant to such previous year.

Further, where any amount is withdrawn by the assessee from his account under the Senior Citizens Savings Scheme or under the Post Office Time Deposit Rules before the expiry of a period of 5 years from the date of its deposit, the amount so withdrawn shall be deemed to be the income of the assessee of the previous year in which the amount is withdrawn. Accordingly, the amount so withdrawn would be chargeable to tax in the assessment year relevant to such previous year. The amount chargeable to tax shall also include that part of the amount withdrawn which represents interest accrued on the deposit. However, if any part of the amount so received or withdrawn (including the amount relating to interest) has been subject to tax in any of the earlier years, such amount shall not be taxed again.

Illustration 2

Mr. A, aged about 61 years, has earned a lottery income of ₹ 1,20,000 (gross) during the P.Y. 2014-15. He also has a business income of ₹ 30,000. He invested an amount of ₹ 10,000 in Public Provident Fund account and ₹ 24,000 in National Saving Certificates. What is the total income of Mr. A for the A.Y. 2015-16?

Solution

Computation of total income of Mr. A for A.Y. 2015-16

Particulars	₹	₹
Profits and gains from business or profession		30,000
Income from other sources - lottery income		1,20,000
Gross Total Income		1,50,000
<i>Less: Deductions under Chapter VIA [See Note below]</i>		
Under section 80C - Deposit in Public Provident Fund	10,000	
- Investment in National Saving Certificate	24,000	
	34,000	
Restricted to		30,000
Total Income		1,20,000

Note: Though the value of eligible investments is ₹ 34,000, however, deductions under chapter VIA cannot exceed the gross total income exclusive of long term capital gains, short term capital gains covered under section 111A, winnings of lotteries etc of the assessee.

Therefore, the maximum permissible deduction u/s 80C = ₹ 1,50,000 – ₹ 1,20,000 = ₹ 30,000.

Illustration 3

An individual assessee, resident in India, has made the following investments during the previous year 2014-15:

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Particulars	₹
Contribution to the public provident fund	1,20,000
Investment in units of eligible mutual funds	40,000
Insurance premium paid on the life of the spouse (policy taken on 1.4.2011) (Assured value ₹ 1,00,000)	25,000

What is the deduction allowable under section 80C for A.Y.2015-16?

Solution

Computation of deduction under section 80C for A.Y.2015-16

Particulars	₹
Deposit in public provident fund	1,20,000
Investment in units of eligible mutual funds	40,000
Insurance premium paid on the life of the spouse (Maximum 20% of the assured value ₹ 1,00,000, as the policy is taken before 1.4.2012)	20,000
Total	1,80,000
However, the maximum permissible deduction u/s 80C is restricted to	1,50,000

Note: As per section 80CCE, the aggregate deduction under section 80C, 80CCC and 80CCD(1) cannot exceed ₹ 1,50,000.

2.2 Deduction in respect of contribution to certain pension funds [Section 80CCC]

(i) Where an assessee, being an individual, has in the previous year paid or deposited any amount out of his income chargeable to tax to effect or keep in force a contract for any annuity plan of LIC of India or any other insurer for receiving pension from the fund referred to in section 10(23AAB), he shall be allowed a deduction in the computation of his total income.

(ii) For this purpose, the interest or bonus accrued or credited to the assessee's account shall not be reckoned as contribution.

(iii) The maximum permissible deduction is ₹ 1,00,000 (However, the overall limit of ₹ 1,50,000 prescribed in section 80CCE will continue to be applicable i.e. the maximum permissible deduction under sections 80C, 80CCC and 80CCD(1) put together is ₹ 1,50,000).

(iv) Where any amount standing to the credit of the assessee in a fund referred to in clause (23AAB) of section 10 in respect of which a deduction has been allowed, together with interest or bonus accrued or credited to the assessee's account is received by the assessee or his nominee on account of the surrender of the annuity plan in any previous year or as pension received from the annuity plan, such amount will be deemed to be the income of the assessee or the nominee in that previous year in which such withdrawal is made or pension is received. It will be chargeable to tax as income of that previous year.

(v) Where any amount paid or deposited by the assessee has been taken into account for the purposes of this section, a deduction under section 80C shall not be allowed with reference to such amount.

2.3 Deduction in respect of contribution to pension scheme of Central Government [Section 80CCD]

- (i) A "New Restructured Defined Contribution Pension System" applicable to new entrants to Government service has been introduced. As per the scheme, it is mandatory for persons entering the service of the Central Government on or after 1st January, 2004, to contribute ten per cent their of salary every month towards their pension account. A matching contribution is required to be made by the Government to the said account. The benefit of this scheme is also available to individuals employed by any other employer as well as to self-employed individuals.
- (ii) Section 80CCD provides deduction in respect of contribution made to the new pension scheme of the Central Government,
- (iii) Section 80CCD(1) provides a deduction for the amount paid or deposited by an employee in his pension account subject to a maximum of 10% of his salary. The deduction in the case of a self-employed individual would be restricted to 10% of his gross total income in the previous year.
- (iv) Further, section 80CCD(1A) restricts the maximum deduction under section 80CCD(1) to ₹ 1,00,000.
- (v) Under section 80CCD(2), contribution made by the Central Government or any other employer in the previous year to the said account of an employee, is allowed as a deduction in computation of the total income of the assessee.
- (vi) The entire employer's contribution would be included in the salary of the employee. However, deduction under section 80CCD(2) would be restricted to 10% of salary.

Note: The limit of ₹ 1,00,000 under section 80CCD(1A) and ₹ 1,50,000 under section 80CCE does **not** apply to employer's contribution to pension scheme of Central Government which is allowable as deduction under section 80CCD(2).

- (vii) Further, the amount standing to the credit of the assessee in the pension account (for which deduction has already been claimed by him under this section) and accretions to such account, shall be taxed as income in the year in which such amounts are received by the assessee or his nominee on -
 - (a) closure of the account or
 - (b) his opting out of the said scheme or
 - (c) receipt of pension from the annuity plan purchased or taken on such closure or opting out.
- (viii) However, the assessee shall be deemed not to have received any amount in the previous year if such amount is used for purchasing an annuity plan in the same previous year.
- (ix) No deduction will be allowed under section 80C in respect of amounts paid or deposited by the assessee, for which deduction has been allowed under section 80CCD(1).

2.4 Limit on deductions under sections 80C, 80CCC & 80CCD(1) [Section 80CCE]

This section restricts the aggregate amount of deduction under section 80C, 80CCC and 80CCD(1) to ₹ 1,50,000. It may be noted that the employer's contribution to pension scheme,

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allowable as deduction under section 80CCD(2) in the hands of the employee, would be outside the overall limit of ₹ 1,50,000 stipulated under section 80CCE.

The following table summarizes the ceiling limit under these sections w.e.f. A.Y.2015-16 –

Section	Particulars	Ceiling limit (₹)
80C	Investment in specified instruments	1,50,000
80CCC	Contribution to certain pension funds	1,00,000
80CCD(1)	Employee's contribution to new pension scheme of Government	1,00,000
80CCE	Aggregate deduction under sections 80C, 80CCC & 80CCD(1)	1,50,000

Illustration 4

The basic salary of Mr. A is ₹ 1,00,000 p.m. He is entitled to dearness allowance, which is 40% of basic salary. 50% of dearness allowance forms part of pay for retirement benefits. Both Mr. A and his employer contribute 15% of basic salary to the pension scheme referred to in section 80CCD. Explain the tax treatment in respect of such contribution in the hands of Mr. A.

Solution

Tax treatment in the hands of Mr.A in respect of employer's and own contribution to pension scheme referred to in section 80CCD

- Employer's contribution to such pension scheme would be treated as salary since it is specifically included in the definition of "salary" under section 17(1)(viii). Therefore, ₹ 1,80,000, being 15% of basic salary of ₹ 12,00,000, will be included in Mr. A's salary.
- Mr. A's contribution to pension scheme is allowable as deduction under section 80CCD(1). However, the deduction is restricted to 10% of salary. Salary, for this purpose, means basic pay plus dearness allowance, if it forms part of pay.

Therefore, "salary" for the purpose of deduction under section 80CCD for Mr.A would be –

Particulars	₹
Basic salary = ₹ 1,00,000 × 12 =	12,00,000
Dearness allowance = 40% of ₹ 12,00,000 = ₹ 4,80,000	
50% of Dearness Allowance forms part of pay = 50% of ₹ 4,80,000	<u>2,40,000</u>
Salary for the purpose of deduction under section 80CCD	<u>14,40,000</u>
Deduction under section 80CCD(1) is restricted to 10% of ₹ 14,40,000 (as against actual contribution of ₹ 1,80,000, being 15% of basic salary of ₹ 12,00,000)	1,44,000
As per section 80CCD(1A), the maximum deduction allowable under section 80CCD(1) is ₹ 1,00,000. Therefore, deduction under section 80CCD(1) is further restricted to ₹ 1,00,000.	1,00,000

₹ 1,00,000 is allowable as deduction under section 80CCD(1). This would be taken into consideration and be subject to the overall limit of ₹ 1,50,000 under section 80CCE.

- (c) Employer's contribution to pension scheme would be allowable as deduction under section 80CCD(2), subject to a maximum of 10% of salary. Therefore, deduction under section 80CCD(2), would also be restricted to ₹ 1,44,000, even though the entire employer's contribution of ₹ 1,80,000 is included in salary under section 17(1)(viii). However, this deduction of employer's contribution of ₹ 1,44,000 to pension scheme would be outside the limit of ₹ 1,00,000 under section 80CCD(1A) as well as the overall limit of ₹ 1,50,000 under section 80CCE i.e., this deduction would be over and above the other deductions which are subject to the limit of ₹ 1,50,000.

Illustration 5

The gross total income of Mr.X for the A.Y.2015-16 is ₹ 5,00,000. He has made the following investments/payments during the F.Y.2014-15 –

Particulars	₹
(1) Contribution to PPF	1,10,000
(2) Payment of tuition fees to Apeejay School, New Delhi, for education of his son studying in Class XI	45,000
(3) Repayment of housing loan taken from Standard Chartered Bank	25,000
(4) Contribution to approved pension fund of LIC	1,05,000

Compute the eligible deduction under Chapter VI-A for the A.Y.2015-16.

Solution

Computation of Deduction under Chapter VI-A for the A.Y.2015-16

Particulars	₹
Deduction under section 80C	
(1) Contribution to PPF – fully allowed, since it is within the limit of ₹ 1,50,000	1,10,000
(2) Payment of tuition fees to Apeejay School, New Delhi, for education of his son studying in Class XI	45,000
(3) Repayment of housing loan	<u>25,000</u>
	<u>1,80,000</u>
Restricted to ₹ 1,50,000, being the maximum permissible deduction under section 80C	1,50,000
Deduction under section 80CCC	
(4) Contribution to approved pension fund of LIC ₹ 1,05,000, restricted to	<u>1,00,000</u>
	<u>2,50,000</u>
As per section 80CCE, the aggregate deduction under section 80C, 80CCC and 80CCD(1) has to be restricted to ₹ 1,50,000	
Deduction allowable under Chapter VIA for the A.Y.2015-16	1,50,000

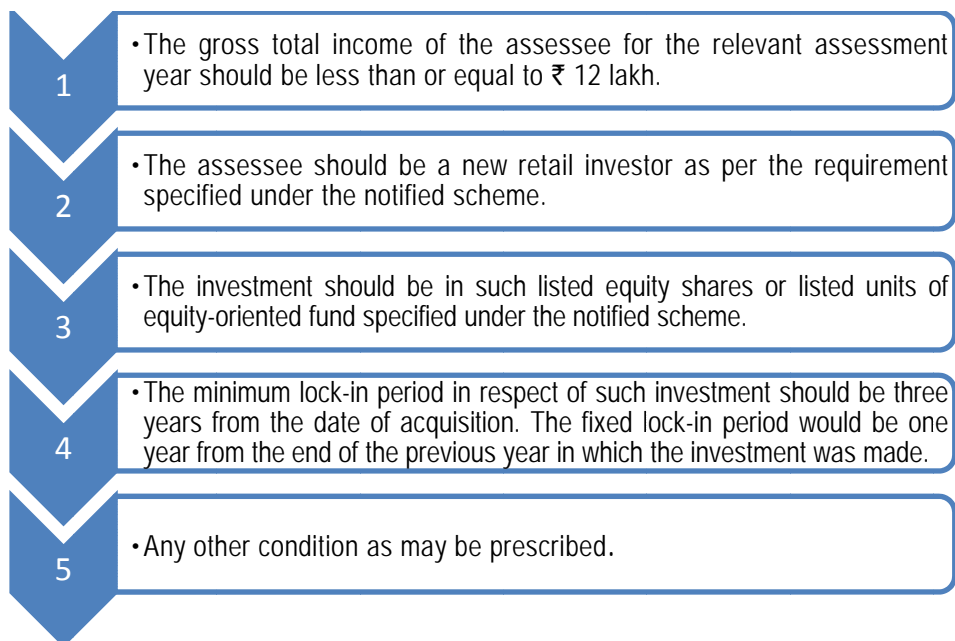
2.5 Deduction in respect of investment made under an equity savings scheme [Section 80CCG]

(i) Deduction under this section would be available to a new retail investor, being a resident individual with gross total income of up to ₹ 12 lakh, for investment in listed equity shares or listed units of equity oriented fund, in accordance with a notified scheme.

The deduction is 50% of amount invested in such equity shares or ₹ 25,000 whichever is lower. The maximum deduction of ₹ 25,000 is available on investment of ₹ 50,000 in such listed equity shares.

Further, the deduction shall be allowed for three consecutive assessment years, beginning with the assessment year relevant to the previous year in which the listed equity shares or listed units of equity oriented fund were first acquired.

(ii) Therefore, the conditions under section 80CCG for claiming deduction would be –



(iii) If the resident individual, after having claimed such deduction, fails to comply with any of the conditions in any previous year, say, he sells the shares or units within one year, then, the deduction earlier allowed shall be deemed to be the income of the previous year in which he fails to comply with the condition. The income shall, accordingly, be liable to tax in the assessment year relevant to such previous year.

Rajiv Gandhi Equity Savings Scheme, 2013

The Central Government has, in exercise of the powers conferred by section 80CCG(1), notified the Rajiv Gandhi Equity Savings Scheme, 2013. The said scheme provides for eligibility criteria, procedure for investment, period of holding and other conditions.

S. No.	Particulars	Content					
1.	Eligibility	<p>The deduction under this scheme shall be available to a new retail investor who complies with the conditions of the Scheme and whose gross total income for the financial year in which the investment is made under the Scheme is less than or equal to ₹12 lakh.</p> <table><tr><td><p>New retail investor means a resident individual,:</p><p>(i) who has not opened a demat account and has not made any transactions in the derivative segment before -</p><ul style="list-style-type: none">- the date of opening of a demat account; or- the first day of the initial year,<p>However, an individual who is not the first account holder of an existing joint demat account shall be deemed to have not opened a demat account for the purposes of this Scheme;</p><p>(ii) who has opened a demat account but has not made any transactions in the equity segment or the derivative segment before -</p><ul style="list-style-type: none">- the date he designates his existing demat account for the purpose of availing the benefit under the Scheme; or- the first day of the initial year.</td><td><p>whichever is later</p><p>whichever is later</p></td></tr><tr><td colspan="2"></td><td><p>Initial year means -</p><p>(a) the financial year in which the investor designates his demat account as Rajiv Gandhi Equity Savings Scheme account and makes investment in the eligible securities for availing deduction under the Scheme; or</p><p>(b) the financial year in which the investor makes investment in eligible securities for availing deduction under the Scheme for the first time, if the investor does not make any investment in eligible securities in the financial year in which the account is so designated.</p></td></tr></table>	<p>New retail investor means a resident individual,:</p> <p>(i) who has not opened a demat account and has not made any transactions in the derivative segment before -</p> <ul style="list-style-type: none">- the date of opening of a demat account; or- the first day of the initial year, <p>However, an individual who is not the first account holder of an existing joint demat account shall be deemed to have not opened a demat account for the purposes of this Scheme;</p> <p>(ii) who has opened a demat account but has not made any transactions in the equity segment or the derivative segment before -</p> <ul style="list-style-type: none">- the date he designates his existing demat account for the purpose of availing the benefit under the Scheme; or- the first day of the initial year.	<p>whichever is later</p> <p>whichever is later</p>			<p>Initial year means -</p> <p>(a) the financial year in which the investor designates his demat account as Rajiv Gandhi Equity Savings Scheme account and makes investment in the eligible securities for availing deduction under the Scheme; or</p> <p>(b) the financial year in which the investor makes investment in eligible securities for availing deduction under the Scheme for the first time, if the investor does not make any investment in eligible securities in the financial year in which the account is so designated.</p>
<p>New retail investor means a resident individual,:</p> <p>(i) who has not opened a demat account and has not made any transactions in the derivative segment before -</p> <ul style="list-style-type: none">- the date of opening of a demat account; or- the first day of the initial year, <p>However, an individual who is not the first account holder of an existing joint demat account shall be deemed to have not opened a demat account for the purposes of this Scheme;</p> <p>(ii) who has opened a demat account but has not made any transactions in the equity segment or the derivative segment before -</p> <ul style="list-style-type: none">- the date he designates his existing demat account for the purpose of availing the benefit under the Scheme; or- the first day of the initial year.	<p>whichever is later</p> <p>whichever is later</p>						
		<p>Initial year means -</p> <p>(a) the financial year in which the investor designates his demat account as Rajiv Gandhi Equity Savings Scheme account and makes investment in the eligible securities for availing deduction under the Scheme; or</p> <p>(b) the financial year in which the investor makes investment in eligible securities for availing deduction under the Scheme for the first time, if the investor does not make any investment in eligible securities in the financial year in which the account is so designated.</p>					

2.	Procedure for investment under the Scheme	<p><i>A new retail investor shall make investments under the Scheme in the following manner, namely:-</i></p> <ol style="list-style-type: none"> <i>1. the new retail investor may invest in one or more financial years in a block of three consecutive financial years beginning with the initial year;</i> <i>2. the new retail investor may make investment in eligible securities in one or more than one transaction during any financial year during the three consecutive financial years beginning with the initial year in which the deduction has to be claimed;</i> <i>3. the new retail investor may make any amount of investment in the demat account but the amount eligible for deduction under the Scheme shall not exceed fifty thousand rupees in a financial year;</i> <i>4. the new retail investor shall be eligible for the tax benefit under the Scheme only for three consecutive financial years beginning with the initial year, in respect of the investment made in each financial year;</i> <i>5. if the new retail investor does not invest in any financial year following the initial year, he may invest in the subsequent financial year, within the three consecutive financial years beginning with the initial year, in accordance with the Scheme;</i> <i>6. the new retail investor who has claimed a deduction under sub-section (1) of section 80CCG of the Act in any assessment year shall not be allowed any deduction under the Scheme for the same investment for any other assessment year;</i> <i>7. the new retail investor shall be permitted a grace period of seven trading days from the end of the financial year so that the eligible securities purchased on the last trading day of the financial year also get credited in the demat account and such securities shall be deemed to have been acquired in the financial year itself;</i> <i>8. the new retail investor can make investments in securities other than the eligible securities covered under the Scheme and such investments shall not be subject to the conditions of the Scheme nor shall they be counted for availing the benefit under the Scheme;</i> <i>9. the deduction claimed shall be withdrawn if the lock-in period requirements of the investment are not complied with or any other condition of the Scheme is contravened by the new retail investor.</i>
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3.	Period of holding	<p>The period of holding of eligible securities invested in each financial year shall be under a lock-in period of three years to be counted in the following manner:</p> <table border="1"> <thead> <tr> <th data-bbox="510 654 622 703">Type of lock-in</th> <th data-bbox="622 654 901 703">Meaning</th> <th data-bbox="901 654 1276 703">Condition</th> </tr> </thead> <tbody> <tr> <td data-bbox="510 703 622 969">Fixed lock-in period</td> <td data-bbox="622 703 901 969">The period commencing from the date of purchase of eligible securities in the relevant financial year and ending on 31st March of the year immediately following the relevant financial year.</td> <td data-bbox="901 703 1276 969">The new retail investor shall hold eligible securities for fixed lock-in period. He shall not be permitted to sell, pledge or hypothecate any eligible security during the fixed lock-in period.</td> </tr> <tr> <td data-bbox="510 969 622 1720">Flexible lock-in period</td> <td data-bbox="622 969 901 1720">The period of two years beginning immediately after the end of the fixed lock-in period shall be called the flexible lock-in period.</td> <td data-bbox="901 969 1276 1720"> <p>The new retail investor shall be permitted to trade the eligible securities after the completion of the fixed lock-in period subject to the conditions prescribed under the scheme.</p> <p>The demat account should be compliant for a cumulative period of a minimum of 270 days during each of the two years of the flexible lock-in period. The demat account shall be considered as compliant for the number of days for which the value of the investment portfolio of eligible securities (other than those which are in fixed lock-in) is equal to or higher than the corresponding investment claimed as eligible for the purpose of deduction under section 80CCG.</p> </td> </tr> </tbody> </table>	Type of lock-in	Meaning	Condition	Fixed lock-in period	The period commencing from the date of purchase of eligible securities in the relevant financial year and ending on 31st March of the year immediately following the relevant financial year.	The new retail investor shall hold eligible securities for fixed lock-in period. He shall not be permitted to sell, pledge or hypothecate any eligible security during the fixed lock-in period.	Flexible lock-in period	The period of two years beginning immediately after the end of the fixed lock-in period shall be called the flexible lock-in period.	<p>The new retail investor shall be permitted to trade the eligible securities after the completion of the fixed lock-in period subject to the conditions prescribed under the scheme.</p> <p>The demat account should be compliant for a cumulative period of a minimum of 270 days during each of the two years of the flexible lock-in period. The demat account shall be considered as compliant for the number of days for which the value of the investment portfolio of eligible securities (other than those which are in fixed lock-in) is equal to or higher than the corresponding investment claimed as eligible for the purpose of deduction under section 80CCG.</p>
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Flexible lock-in period	The period of two years beginning immediately after the end of the fixed lock-in period shall be called the flexible lock-in period.	<p>The new retail investor shall be permitted to trade the eligible securities after the completion of the fixed lock-in period subject to the conditions prescribed under the scheme.</p> <p>The demat account should be compliant for a cumulative period of a minimum of 270 days during each of the two years of the flexible lock-in period. The demat account shall be considered as compliant for the number of days for which the value of the investment portfolio of eligible securities (other than those which are in fixed lock-in) is equal to or higher than the corresponding investment claimed as eligible for the purpose of deduction under section 80CCG.</p>									

7.20 Income-tax

4.	Other Conditions	<p>(i) While making initial investments up to ₹ 50,000, the total cost of acquisition of eligible securities shall not include brokerage charges, securities transaction tax, stamp duty, service tax and any other tax, which may appear in the contract note.</p> <p>(ii) Where the investment of the new retail investor undergoes a change as a result of involuntary corporate actions including demerger of companies, amalgamation and such other actions, as may be notified by SEBI, resulting in debit or credit of securities covered under the Scheme, the deduction claimed by such investor shall not be affected.</p> <p>(iii) In the case of voluntary corporate actions, including buy-back resulting only in debit of securities where new retail investor has the option to exercise his choice, the same shall be considered as a sale transaction for the purpose of the Scheme.</p>
5.	Consequence of failure to comply with the prescribed conditions	If the new retail investor fails to fulfill any of the provisions of the Scheme, the deduction originally allowed to him under section 80CCG(1) for any previous year, shall be deemed to be the income of the assessee of the previous year in which he fails to comply with the provisions of the Scheme and shall be liable to tax for the assessment year relevant to such previous year.
6.	Savings	A new retail investor who has invested in accordance with the Rajiv Gandhi Equity Savings Scheme, 2012 shall continue to be governed by the provisions of that Scheme to the extent it is not in contravention of the provisions of this Scheme and such investor shall also be eligible for the benefit of investment made in accordance with this Scheme for the financial years 2013-14 and 2014-15.

Example

Mr. X and Mr. Y, new retail investors, have made the following investments in equity shares/units of equity oriented fund of Rajiv Gandhi Equity Savings Scheme for the P.Y.2013-14, P.Y.2014-15 & P.Y.2015-16 as below :

Particulars		P.Y.2013-14	P.Y.2014-15	P.Y.2015-16
Mr.X		₹	₹	₹
(i)	Investment in listed equity shares	20,000	45,000	32,000
(ii)	Investment in units of equity-oriented fund	40,000	-	11,000
(iii)	Gross Total Income (comprising of salary income and bank interest)	11,25,000	11,15,000	12,50,000
Deduction u/s 80CCG		25,000	22,500	Nil
Remark		(Restricted to 50% of ₹ 50,000)	(50% of ₹ 45,000)	(Not eligible since GTI > 12,00,000)

Mr. Y	₹	₹	₹
(i) Investment in listed equity shares	25,000	-	30,000
(ii) Investment in units of equity-oriented fund	15,000	40,000	25,000
(iii) Sale of all units of equity oriented fund purchased in P.Y.2014-15	-	-	70,000
(iii) Gross Total Income (comprising of Salary income and bank interest)	10,50,000	12,15,000	11,50,000
Deduction under section 80CCG	20,000	NIL	25,000
Remark	(50% of ₹ 40,000)	(Since GTI > 12,00,000)	(Restricted to 50% of ₹ 50,000)
Amount liable to tax (on account of violation of condition) [See Note below]			NIL

Note – Since the deduction under section 80CCG was not allowed during the P.Y.2014-15 on account of the Gross Total Income exceeding ₹ 12 lakhs, no amount relating to that year can be subject to tax in the P.Y.2015-16 being the year of violation of condition, even though the units were sold within 1 year from the end of P.Y. 2014-15.

2.6 Deduction in respect of medical insurance premium [Section 80D]

(i) As per section 80D, in case of an individual, a deduction is allowed in respect of premium paid to effect or keep in force an insurance on the health of self, spouse and dependent children or any contribution made to the Central Government Health Scheme, up to a maximum of ₹ 15,000 in aggregate. A further deduction of ₹ 15,000 is also allowed in case the premium is paid for the health insurance taken for the health of parents.

An increased deduction of ₹ 20,000 (instead of ₹ 15,000) shall be allowed in case any of the persons mentioned above is a senior citizen i.e. an individual resident in India of the age of 60 years or more at any time during the relevant previous year.

Further, deduction would be allowed only if the payment of insurance premium is made in any mode other than cash.

(ii) Section 80D provides that deduction to the extent of ₹ 5,000 shall be allowed in respect payment made on account of preventive health check-up of self, spouse, dependent children or parents made during the previous year. However, the said deduction of ₹ 5,000 is within the overall limit of ₹ 15,000 or ₹ 20,000, as the case may be.

(iii) In effect, the maximum deduction allowable under this section in any assessment year shall be to the extent of ₹ 15,000 for self, spouse and dependent children (₹ 20,000 in case any of the persons are senior citizen) in respect of the following payments made -

- (1) to effect or keep in force an insurance on the health of self, spouse or dependent children.

7.22 Income-tax

- (2) on account of contribution to the Central Government Health Scheme or such other health scheme as may be notified by the Central Government. ***Contributory Health Service Scheme of the Department of Space has been notified by the Central Government.***
- (3) on account of preventive health check-up of self, spouse or dependent children.
- (iv) A further deduction up to ₹ 15,000 (₹ 20,000 in case either of parents are senior citizens) is allowable –
 - (1) to effect or keep in force an insurance on the health of parents.
 - (2) on account of preventive health check-up of parents.
- (v) The maximum deduction allowable in respect of expenditure on preventive health check-up of self, spouse, dependent children and parents would be ₹ 5,000.
- (vi) Further it is provided that, for claiming such deduction under section 80D, the payment can be made:
 - (1) by any mode, including cash, in respect of any sum paid on account of preventive health check-up;
 - (2) by any mode other than cash, in all other cases.

Illustration 6

Mr. A, aged 40 years, paid medical insurance premium of ₹ 12,000 during the P.Y.2014-15 to insure his health as well as the health of his spouse. He also paid medical insurance premium of ₹ 17,000 during the year to insure the health of his father, aged 63 years, who is not dependent on him. He contributed ₹ 2,400 to Central Government Health Scheme during the year. He has incurred ₹ 3,000 in cash on preventive health check-up of himself and his spouse and ₹ 4,000 by cheque on preventive health check-up of his father. Compute the deduction allowable under section 80D for the A.Y.2015-16.

Solution

Deduction allowable under section 80D for the A.Y.2015-16

	Particulars	Actual Payment	Maximum deduction allowable
A.	Premium paid and medical expenditure incurred for self and spouse	₹	₹
(i)	Medical insurance premium paid for self and spouse	12,000	12,000
(ii)	Contribution to CGHS	2,400	2,400
(iii)	Exp. on preventive health check-up of self & spouse	3,000	600
		17,400	15,000

B.	Premium paid and medical expenditure incurred for father, who is a senior citizen		
(i)	Mediclaime premium paid for father, who is over 60 years of age	17,000	17,000
(ii)	Expenditure on preventive health check-up of father	4,000	3,000
		21,000	20,000
	Total deduction under section 80D (15,000 + 20,000)		35,000

Notes:

- (1) The total deduction under A.(i), (ii) and (iii) above should not exceed ₹ 15,000. Therefore, the expenditure on preventive health check-up for self and spouse would be restricted to ₹ 600, being (₹ 15,000 – ₹ 12,000 – ₹ 2,400).
- (2) The total deduction under B. (i) and (ii) above should not exceed ₹ 20,000. Therefore, the expenditure on preventive health check-up for father would be restricted to ₹ 3,000, being (₹ 20,000 – ₹ 17,000).
- (3) In this case, the total deduction allowed on account of expenditure on preventive health check-up of self, spouse and father is ₹ 3,600 (i.e., ₹ 600 + ₹ 3,000), which is less than the maximum permissible limit of ₹ 5,000.

Illustration 7

Mr. Y, aged 40 years, paid medical insurance premium of ₹ 12,000 during the P.Y.2014-15 to insure his health as well as the health of his spouse and dependent children. He also paid medical insurance premium of ₹ 21,000 during the year to insure the health of his father, aged 67 years, who is not dependent on him. He contributed ₹ 2,400 to Central Government Health Scheme during the year. Compute the deduction allowable under section 80D for the A.Y.2015-16.

Solution**Deduction allowable under section 80D for the A.Y.2015-16**

	Particulars	₹
(i)	Medical insurance premium paid for self, spouse and dependent children	12,000
(ii)	Contribution to CGHS	2,400
(iii)	Mediclaime premium paid for father, who is over 60 years of age (₹ 21,000 but restricted to ₹ 20,000, being the maximum allowable)	20,000
		34,400

Note – The total deduction under (i) and (ii) above should not exceed ₹ 15,000. In this case, since the total of (i) and (ii) (i.e., ₹ 14,400) does not exceed ₹ 15,000, the same is fully allowable under section 80D.

However, had the medical insurance premium paid for self, spouse and children been ₹ 14,000 instead of ₹ 12,000, then, the total of ₹ 16,400 (i.e., ₹ 14,000 + ₹ 2,400) under (i) and (ii) above would be restricted to ₹ 15,000. In such a case, the total deduction allowable under section 80D would be ₹ 35,000 [i.e., ₹ 15,000 [(i) & (ii)] + ₹ 20,000 (iii)].

(vii) In the case of a HUF, deduction is allowed under this section in respect of premium paid to insure the health of any member of the family. The maximum deduction available to a HUF would be ₹ 15,000 and in case any member is a senior citizen, ₹ 20,000.

(viii) The other conditions to be fulfilled are that such premium should be paid by any mode, other than cash, in the previous year out of his income chargeable to tax. Further, the medical insurance should be in accordance with a scheme made in this behalf by -

(a) the General Insurance Corporation of India and approved by the Central Government in this behalf; or

(b) any other insurer and approved by the Insurance Regulatory and Development Authority.

2.7 Deduction in respect of maintenance including medical treatment of a dependent disabled [Section 80DD]

(i) Section 80DD provides deduction to an assessee, who is a resident in India, being an individual or Hindu undivided family. Any amount incurred for the medical treatment (including nursing), training and rehabilitation of a dependant, being a person with disability, or any amount paid or deposited under a scheme framed in this behalf by the Life Insurance Corporation or any other insurer or the Administrator or the Specified Company as referred to in section 2(h) of the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002, for the maintenance of a dependant, being a person with disability, qualifies for deduction.

(ii) The benefit of deduction under this section is also available to assessee incurring expenditure on maintenance including medical treatment of persons suffering from autism, cerebral palsy and multiple disabilities.

(iii) The quantum of deduction is ₹ 50,000 and in case of severe disability (i.e. person with 80% or more disability) the deduction shall be ₹ 1,00,000.

(iv) The term 'dependent' has been defined to include in the case of an individual, the spouse, children, parents, brothers and sisters of the individual and in the case of a Hindu Undivided Family (HUF), a member thereof, who is wholly or mainly dependent on the assessee and has not claimed any deduction under section 80U in the computation of his income.

(v) For claiming the deduction, the assessee shall have to furnish a copy of the certificate issued by the medical authority under the Persons with Disability (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 along with the return of income under section 139.

(vi) Where the condition of disability requires reassessment, a fresh certificate from the medical authority shall have to be obtained after the expiry of the period mentioned in the original certificate in order to continue to claim the deduction.

Illustration 8

Mr. X is a resident individual. He deposits a sum of ₹ 25,000 with Life Insurance Corporation every year for the maintenance of his handicapped grandfather who is wholly dependent upon him. The disability is one which comes under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995. A copy of the certificate from the medical authority is submitted. Compute the amount of deduction available under section 80DD for the A.Y. 2015-16.

Solution

Since the amount deposited by Mr. X was for his grandfather, he will not be allowed any deduction under section 80DD. The deduction is available if the individual assessee incurs any expense for a dependant disabled relative. Grandfather does not come within the definition of dependant relative.

Illustration 9

What will be the deduction if Mr. X had made this deposit for his dependant father?

Solution

Since the expense was incurred for a dependant disabled relative, Mr. X will be entitled to claim a deduction of ₹ 50,000 under section 80DD, irrespective of the amount deposited. In case his father has severe disability, the deduction would be ₹ 1,00,000.

2.8 Deduction in respect of medical treatment etc. [Section 80DDB]

(i) This section provides deduction to an assessee, who is resident in India, being an individual and Hindu undivided family. Any amount actually paid for the medical treatment of such disease or ailment as may be specified in the rules made in this behalf by the Board for himself or a dependent, in case the assessee is an individual or for any member of a HUF, in case the assessee is a HUF will qualify for deduction.

(ii) The amount of deduction under this section shall be equal to the amount actually paid or ₹ 40,000, whichever is less, in respect of that previous year in which such amount was actually paid. In case the amount is paid in respect of a senior citizen, i.e., a resident individual of the age of 60 years or more at any time during the relevant previous year, then the deduction would be the amount actually paid or ₹ 60,000, whichever is less.

(iii) The term 'dependent' includes in the case of an individual, the spouse, children, parents, brothers and sisters of the individual and in the case of a Hindu undivided family (HUF), a member of the HUF, who is wholly or mainly dependent on such individual or HUF for his support and maintenance.

(iv) No such deduction shall be allowed unless the assessee furnishes with a return of income, a certificate in such form, as may be prescribed, from a neurologist, an oncologist, a urologist, a hematologist, an immunologist or such other specialist, as may be prescribed, working in a Government hospital.

(v) The term "Government hospital" will also include approved hospitals for the treatment of Government servants.

(vi) The deduction under this section shall be reduced by the amount received, if any, under an insurance from an insurer, or reimbursed by an employer, for the medical treatment of the assessee or the dependent.

2.9 Deduction in respect of interest loan taken for higher education [Section 80E]

(i) Section 80E provides deduction to an individual-assessee in respect of any interest on loan paid by him in the previous year out of his income chargeable to tax.

(ii) The loan must have been taken for the purpose of pursuing his higher education or for the purpose of higher education of his or her relative i.e. spouse or children of the individual or the student for whom the individual is the legal guardian.

(iii) "Higher education" means any course of study (including vocational studies) pursued after passing the Senior Secondary Examination or its equivalent from any school, board or university recognised by the Central Government or State Government or local authority or by any other authority authorized by the Central Government or State Government or local authority to do so. Therefore, interest on loan taken for pursuing any course after Class XII or its equivalent, will qualify for deduction under section 80E.

(iv) The loan must have been taken from any financial institution or approved charitable institution.

(v) The deduction is allowed in computing the total income in respect of the initial assessment year (i.e. the assessment year relevant to the previous year, in which the assessee starts paying the interest on the loan) and seven assessment years immediately succeeding the initial assessment year or until the interest is paid in full by the assessee, whichever is earlier.

(vi) "Approved charitable institution" means an institution established for charitable purposes and approved by the prescribed authority under section 10(23C) or an institution referred to in section 80G(2)(a).

(vii) "Financial institution" means –

- (1) a banking company to which the Banking Regulation Act, 1949 applies (including a bank or banking institution referred to in section 51 of the Act); or
- (2) any other financial institution which the Central Government may, by notification in the Official Gazette, specify in this behalf.

Illustration 10

Mr. B has taken three education loans on April 1, 2014, the details of which are given below:

	<i>Loan 1</i>	<i>Loan 2</i>	<i>Loan 3</i>
<i>For whose education loan was taken</i>	<i>B</i>	<i>Son of B</i>	<i>Daughter of B</i>
<i>Purpose of loan</i>	<i>MBA</i>	<i>B. Sc.</i>	<i>B.A.</i>

<i>Amount of loan (₹)</i>	<i>5,00,000</i>	<i>2,00,000</i>	<i>4,00,000</i>
<i>Annual repayment of loan (₹)</i>	<i>1,00,000</i>	<i>40,000</i>	<i>80,000</i>
<i>Annual repayment of interest (₹)</i>	<i>20,000</i>	<i>10,000</i>	<i>18,000</i>

Compute the amount deductible under section 80E for the A.Y.2015-16.

Solution

Deduction under section 80E is available to an individual assessee in respect of any interest paid by him in the previous year in respect of loan taken for pursuing his higher education or higher education of his spouse or children. Higher education means any course of study pursued after senior secondary examination.

Therefore, interest repayment in respect of all the above loans would be eligible for deduction.

Deduction under section 80E = ₹ 20,000 + ₹ 10,000 + ₹ 18,000 = ₹ 48,000.

2.10 Additional deduction in respect of interest on loan taken for residential house property [Section 80EE]

(i) Clause (b) of section 24 provides for deduction of interest payable on capital borrowed for acquisition, construction, repairs, renewal and reconstruction of property while computing income under the head "Income from house property".

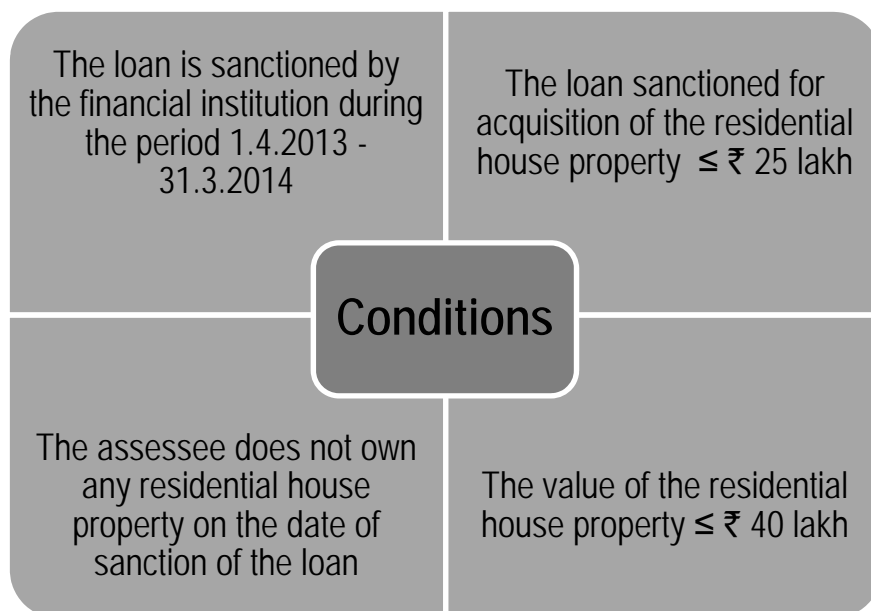
(ii) In case of capital borrowed for acquisition or construction of self-occupied property, or a property which cannot actually be occupied by the owner by reason of the fact that owing to his employment, business or profession carried on at any other place, he has to reside at that other place in a building not belonging to him, the amount of deduction under section 24(b) is restricted to **₹ 2,00,000 w.e.f. A.Y.2015-16** (₹ 1,50,000 upto A.Y.2014-15).

(iii) Taking into account the need for affordable housing, section 80EE was inserted by the Finance Act, 2013 to provide an additional benefit for first-home buyers relating to deduction in respect of interest on loan taken for residential house property.

(iv) Section 80EE provides for deduction of interest payable on loan taken by an individual-assessee from any financial institution (i.e., bank or banking institution or housing finance company formed and registered in India) for the purpose of acquisition of a residential house property, while computing his total income.

(v) The deduction under section 80EE shall not exceed ₹ 1 lakh and shall be allowed in computing the total income of the individual for the A.Y.2014-15 and in a case where the deduction for the previous year relevant to the said assessment year is less than ₹ 1 lakh, the balance amount shall be allowed in the A.Y.2015-16.

(vi) The deduction shall be subject to the following conditions:-



(vii) Further, where a deduction under this section is allowed for any assessment year, in respect of interest on housing loan, deduction shall not be allowed in respect of such interest under any other provision of the Income-tax Act, 1961, for the same or any other assessment year.

Illustration 11

Mr. A purchased a residential house property for self-occupation at a cost of ₹ 30 lakh on 1.6.2013, in respect of which he took a housing loan of ₹ 24 lakh from Bank of India@11% p.a. on the same date. Compute the eligible deduction in respect of interest on housing loan for A.Y.2014-15 and A.Y.2015-16 under the provisions of the Income-tax Act, 1961, assuming that the entire loan was outstanding as on 31.3.2015 and he does not own any other house property.

Solution

Particulars		₹
For A.Y.2014-15		
(i)	Deduction under section 24(b) ₹ 2,20,000 [₹ 24,00,000 × 11% × 10/12] Restricted to	1,50,000
(ii)	Deduction under section 80EE (₹ 2,20,000 – ₹ 1,50,000)	70,000

For A.Y.2015-16		
(i)	Deduction under section 24(b) ₹ 2,64,000 [₹ 24,00,000 × 11%] Restricted to	2,00,000
(ii)	Deduction under section 80EE (₹ 1,00,000 – ₹ 70,000, allowed as deduction in P.Y.2013-14)	30,000

Note - Mr. A is entitled to deduction under section 80EE, in addition to deduction under section 24(b) since –

- (1) the loan is sanctioned by Bank of India, being a financial institution, during the period between 1.4.2013 and 31.3.2014;
- (2) the loan amount sanctioned is less than ₹ 25 lakh;
- (3) the value of the house property is less than ₹ 40 lakh;
- (4) he does not own any other residential house property.

2.11 Deduction in respect of donations to certain funds, charitable institutions etc. [Section 80G]

(i) Where an assessee pays any sum as donation to eligible funds or institutions, he is entitled to a deduction, subject to certain limitations, from the gross total income.

(ii) The following table gives the details of the institutions and funds to which donations can be made for the purpose of claiming deduction under section 80G, the qualifying amount and the deductions allowable -

Eligible institutions / funds	Permissible deduction
1	2
1. The National Defence Fund set up by the Central Government.	100%
2. The Jawaharlal Nehru Memorial Fund.	50%
3. Prime Minister's Drought Relief Fund.	50%
4. Prime Minister's National Relief Fund.	100%
5. Prime Minister's Armenia Earthquake Relief Fund.	100%
6. The Africa (Public Contributions-India) Fund.	100%
7. The National Children's Fund.	100%
8. Indira Gandhi Memorial Trust.	50%
9. Rajiv Gandhi Foundation.	50%
10. The National Foundation for Communal Harmony.	100%

7.30 Income-tax

11. Approved University or educational institution of national eminence.	100%
12. Maharashtra Chief Minister's Earthquake Relief Fund.	100%
13. Any fund set up by the State Government of Gujarat exclusively for providing relief to the victims of the Gujarat earthquake.	100%
14. Any Zila Saksharta Samiti for primary education in villages and towns and for literacy and post-literacy activities	100%
15. National Blood Transfusion Council or any State Blood Transfusion Council whose sole objective is the control, supervision, regulation or encouragement of operation and requirements of blood banks.	100%
16. Any State Government Fund set up to provide medical relief to the poor.	100%
17. The Army Central Welfare Fund or Indian Naval Benevolent Fund or Air Force Central Welfare Fund established by the armed forces of the Union for the welfare of past and present members of such forces or their dependents.	100%
18. The National Illness Assistance Fund.	100%
19. The Chief Minister's Relief Fund or Lieutenant Governor's Relief Fund.	100%
20. The National Sports Fund set up by the Central Government.	100%
21. The National Cultural Fund set up by the Central Government.	100%
22. The Fund for Technology Development and Application set up by the Central Government.	100%
23. National Trust for welfare of persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities.	100%

Eligible institutions / funds	% of donation subject to qualifying limit [see para (iii) below]
1	2

24. Any Institution or Fund established in India for charitable purposes fulfilling certain prescribed conditions under section 80G(5)	50%
25. The Government or any local authority for utilisation for any charitable purpose other than the purpose of promoting family planning.	50%
26. An authority constituted in India or under any other law enacted either for dealing with and satisfying the need for housing accommodation or for the	

- purpose of planning, development or improvement of cities, towns and villages, or both. 50%
27. Any Corporation established by the Central Government or any State Government for promoting the interests of the members of a minority community. 50%
28. The Government or to any approved local authority, institution or association for promotion of family planning. 100%
29. Notified temple, mosque, gurdwara, church or other place of historic, archaeological or artistic importance or which is a place of public worship of renown throughout any State or States. 50%
30. Sum paid by a company as donation to the Indian Olympic Association or any other association/institution established in India, as may be notified by the Government for the development of infrastructure for sports or games, or the sponsorship of sports and games in India. 100%
- (iii) All the eligible donations SI.No. 24 to 30 should be aggregated and the sum total should be limited to 10% of the adjusted gross total income. This would be the maximum permissible deduction. The donations qualifying for 100% deduction would be first adjusted from the maximum permissible deduction and thereafter 50% deduction of the balance would be allowed.

Adjusted gross total income means the gross total income as reduced by the following:

- (1) amount of deductions under sections 80C to 80U (but not including section 80G),
- (2) Any income on which income-tax is not payable,
- (3) Long term capital gains taxable under section 112 and short term capital gains taxable under section 111A,
- (4) Income from lotteries, horse races etc. taxable under section 115BB.

(iv) The conditions mentioned in item No. 24 above are as follows:

- (1) The institution or fund is:
 - (a) constituted as a public charitable trust, or
 - (b) registered under the Societies Registration Act, 1960 or under any corresponding law or under section 25 of the Companies Act, 1956, or
 - (c) a University established by law or
 - (d) any other educational institution recognized by the Government or

(e) an institution financed wholly or in part by the Government or a local authority.

- (2) Where such Institution or Fund derives any income, such income should not be liable to inclusion in its total income under the provisions of section 10(23AA), 10(23C) or 11 or 12.

The Institution, referred to in the above clauses of section 10 are as follows :

- (i) Regimental fund or Non-public Fund established by the armed forces of the Union for the welfare of its members and their dependants [Section 10(23AA)]
- (ii) The Prime Minister Fund (Promotion of Folk Art) [Section 10(23C)]
- (iii) The Prime Minister Aid to Students Fund [Section 10(23C)]
- (iv) National Foundation for communal harmony [Section 10(23C)]
- (v) Charitable Trusts and Institutions [Sections 11 and 12].

However, it may be noted that the assessee will not lose the benefit of deduction if :

- (a) subsequent to the donation, any part of the income of the Institution has become chargeable to tax due to non-compliance with any of the provisions of section 11 or section 12 or section 12A.
 - (b) as a result of the operation of section 11(1)(c), exemption under section 11 or section 12 is denied to the institution.
- (3) No part of the income or assets of the Institution or Fund is transferable or applicable at any time for any purposes other than charitable purpose. Such charitable purpose however does not include any purpose the whole or substantially the whole of which is of a religious nature.

For the purposes of this section, an association or institution having as its object the control, supervision, regulation or encouragement in India of such games or sports as the Central Government may, by notification in the Official Gazette, specify in this behalf, shall be deemed to be an institution established in India for a charitable purpose.

- (4) The Institution or Fund is not expressed to be for the benefit of any particular religious community or caste. An institution or fund established for the benefit of women and children or of Scheduled Castes, Backward classes or Scheduled Tribes is not however to be treated as an institution or fund for the benefit of a religious community or caste.
- (5) The Institution or Fund maintains regular accounts of its receipt and expenditure.
- (v) Where an assessee has claimed and has been allowed any deduction under this section in respect of any amount of donation, the same amount will not qualify for deduction under any other provision of the Act for the same or any other assessment year [Sub-section (5A)].
- (vi) Where an institution or fund incurs expenditure of a religious nature for an amount not exceeding 5% of its total income in that previous year, such institution or fund shall be deemed to be a fund or institution to which the provisions of this section apply.
- (vii) Donations in kind shall not qualify for deduction.
- (viii) No deduction shall be allowed in respect of donation of any sum exceeding ₹ 10,000 unless such sum is paid by any mode other than cash.

- (ix) The deduction under section 80G can be claimed whether it has any nexus with the business of the assessee or not.
- (x) In respect of donations made after 31.3.1992 to any institution or fund, such institution or fund must be approved by the Commissioner in accordance with the rules made in this behalf.
- (xi) As per *Circular No.2/2005 dated 12.1.2005*, in cases where employees make donations to the Prime Minister's National Relief Fund, the Chief Minister's Relief Fund or the Lieutenant Governor's Relief Fund through their respective employers, it is not possible for such funds to issue separate certificate to every such employee in respect of donations made to such funds as contributions made to these funds are in the form of a consolidated cheque. An employee who makes donations towards these funds is eligible to claim deduction under section 80G. It is, hereby, clarified that the claim in respect of such donations as indicated above will be admissible under section 80G of the Income-tax Act, 1961 on the basis of the certificate issued by the Drawing and Disbursing Officer (DDO)/Employer in this behalf.

2.12 Deduction in respect of rent paid [Section 80GG]

- (i) This section provides for deduction in respect of rent paid.
- (ii) The following conditions have to be satisfied for claiming deduction under section 80GG -
 - (1) The assessee should not be receiving any house rent allowance exempt under section 10(13A).
 - (2) The expenditure incurred by him on rent of any furnished or unfurnished accommodation should exceed 10% of his total income arrived at after all deductions under Chapter VI A except section 80GG.
 - (3) The accommodation should be occupied by the assessee for the purposes of his own residence.
 - (4) The assessee should fulfil such other conditions or limitations as may be prescribed, having regard to the area or place in which such accommodation is situated and other relevant considerations.
 - (5) The assessee or his spouse or his minor child or an HUF of which he is a member should not own any accommodation at the place where he ordinarily resides or perform duties of his office or employment or carries on his business or profession; or
 - (6) If the assessee owns any accommodation at any place other than that referred to above, such accommodation should not be in the occupation of the assessee and its annual value is not required to be determined under section 23(2)(a) or section 23(4)(a).
 - (7) The assessee should file a declaration in the prescribed form, confirming the details of rent paid and fulfillment of other conditions, with the return of income.
- (iii) The deduction admissible will be the least of the following:
 - (1) Actual rent paid minus 10% of the total income of the assessee before allowing the deduction, or

- (2) 25% of such total income (arrived at after making all deductions under Chapter VI A but before making any deduction under this section), or
- (3) Amount calculated at ₹ 2,000 p.m.

Illustration 12

An assessee, whose total income is ₹ 46,000, paid house rent at ₹ 1,200 p.m. in respect of residential accommodation occupied by him at Mumbai. Compute the deduction allowable under section 80GG.

Solution

The deduction under section 80GG will be computed as follows:

- (i) Actual rent less 10 per cent of total income

$$14,400 \text{ minus } \frac{(10 \times 46,000)}{100} = ₹ 9,800(A)$$

- (ii) 25 per cent of total income

$$\frac{25 \times 46,000}{100} = ₹ 11,500(B)$$

- (iii) Amount calculated at ₹ 2,000 p.m. = ₹ 24,000(C)

Deduction allowable (least of A, B and C) = ₹ 9,800

2.13 Deduction in respect of donations for scientific research and rural development [Section 80GGA]

- (i) Section 80GGA grants deduction in respect of the donations made for scientific research or rural development by any assessee not having income chargeable under the head "Profits and gains of business or profession".

- (ii) The following donations would qualify for deduction under this section -

(1) Any sum paid by the assessee in the previous year to a research association which has, as its object, the undertaking of scientific research or to a University, college or other institution to be used for scientific research; and

(2) Any sum paid by the assessee in the previous year to an association or institution which has as its object the undertaking of any programme of rural development to be used for carrying out any programme of rural development approved by the prescribed authority for purposes of section 35CCA or to an institution or association which has as its object the training of persons for implementing programmes of rural development.

It is, however, essential that in respect of both the aforesaid donations, the association or institution to which the donation is given must be approved by the prescribed authority; in the case of donation for scientific research, the donation must be to the institution approved under section 35(1)(ii) whereas in the case of donation for rural development the institution or association must be approved by the prescribed authority under section 35CCA(2).

(3) Any sum paid to a Research Association which has as its object the undertaking of research in social science or statistical research, University, College or other institution to be used for research in social science or statistical research.

Such Research Association, University, College or institution must be approved under section 35(1)(iii).

(4) Any sum paid to a public sector company or a local authority or to an association or institution approved by the National Committee for carrying out any eligible project or scheme.

However, the assessee must furnish a certificate referred to in section 35AC from such public sector company or local authority or association or institution.

The expression "National Committee" and "eligible project or scheme" shall have the meanings respectively assigned to them in the Explanation to section 35AC.

Note – It has been clarified that the deduction to which an assessee is entitled in respect of any sum paid to a Research association, university, college or other institution or to an association or institution for carrying out the programme of rural development, or to a public sector company, or to a local authority or to an association or institution for carrying out the eligible project or scheme referred to in section 35AC, respectively, shall not be denied merely on the ground that subsequent to the payment of such sum by the assessee the approval granted or, as the case may be, the notification has been withdrawn.

(5) Any sum paid to a rural development fund set up and notified under section 35CCA.

(6) Any sum paid by the assessee in the previous year to National Urban Poverty Eradication Fund (NUPEF).

(iii) Restrictions on deduction:

(1) No deduction under this section would be allowed in the case of an assessee whose gross total income includes income which is chargeable under the head "Profits and gains of business or profession."

(2) Where a deduction under this section is claimed and allowed for any assessment year, deduction shall not be allowed in respect of such payment under any provision of this Act for the same or any other assessment year.

(3) No deduction shall be allowed in respect of donation of any sum exceeding ₹ 10,000 unless such sum is paid by any mode other than cash.

2.14 Deduction in respect of contributions given by companies to political parties [Section 80GGB]

(i) This section provides for deduction of any sum contributed in the previous year by an Indian company to any political party or an electoral trust. However, no deduction shall be allowed in respect of any sum contributed by way of cash.

(ii) For the purposes of this section, the word "contribute" has the same meaning assigned to it under section 293A of the Companies Act, 1956, which provides that -

(a) a donation or subscription or payment given by a company to a person for carrying on

any activity which is likely to effect public support for a political party shall also be deemed to be contribution for a political purpose;

- (b) the expenditure incurred, directly or indirectly, by a company on advertisement in any publication (being a publication in the nature of a souvenir, brochure, tract, pamphlet or the like) by or on behalf of a political party or for its advantage shall also be deemed to be a contribution to such political party or a contribution for a political purpose to the person publishing it.

(iii) "Political party" means a political party registered under section 29A of the Representation of the People Act, 1951.

Illustration 13

During the P.Y.2014-15, ABC Ltd., an Indian company,

- (1) *contributed a sum of ₹ 2 lakh to an electoral trust; and*
(2) *incurred expenditure of ₹ 25,000 on advertisement in a brochure of a political party.*

Is the company eligible for deduction in respect of such contribution/expenditure, assuming that the contribution was made by cheque? If so, what is the quantum of deduction?

Solution

An Indian company is eligible for deduction under section 80GGB in respect of any sum contributed by it in the previous year to any political party or an electoral trust. Further, the word "contribute" in section 80GGB has the meaning assigned to it in section 293A of the Companies Act, 1956, and accordingly, it includes the amount of expenditure incurred on advertisement in a brochure of a political party.

Therefore, ABC Ltd. is eligible for a deduction of ₹ 2,25,000 under section 80GGB in respect of sum of ₹ 2 lakh contributed to an electoral trust and ₹ 25,000 incurred by it on advertisement in a brochure of a political party.

It may be noted that there is a specific disallowance under section 37(2B) in respect of expenditure incurred on advertisement in a brochure of a political party. Therefore, the expenditure of ₹ 25,000 would be disallowed while computing business income/gross total income. However, the said expenditure incurred by an Indian company is allowable as a deduction from gross total income under section 80GGB.

2.15 Deduction in respect of contributions given by any person to political parties [Section 80GGC]

(i) This section provides for deduction of any sum contributed in the previous year by any person to a political party or an electoral trust. However, no deduction shall be allowed in respect of any sum contributed by way of cash.

(ii) However, the deduction will not be available to a local authority and an artificial juridical person, wholly or partly funded by the Government.

(iii) "Political party" means a political party registered under section 29A of the Representation of the People Act, 1951.

3. Deduction in respect of incomes

3.1 Deductions in respect of profits and gains from undertakings or enterprises engaged in infrastructure development, etc. [Section 80-IA]

(i) **Applicability:** Section 80-IA(1) provides a ten year tax holiday to an assessee, whose gross total income includes any profits and gains derived by an undertaking or enterprise from an eligible business i.e., business referred to in sub-section (4), namely :

- (1) Infrastructure facility - Any enterprise carrying on the business of :
 - (a) developing
 - (b) operating and maintaining; or
 - (c) developing, operating and maintaining any infrastructure facility.

Conditions: However, such enterprise must fulfill the following conditions :

- (i) It must be owned by a company registered in India or by a consortium of such companies or by an authority or a board or a corporation or any other body established or constituted under any Central or State Act.
- (ii) It has entered into an agreement with the Central or a State Government or a local authority or statutory body for (i) developing or (ii) operating and maintaining, or (iii) developing, operating and maintaining a new infrastructure facility.
- (iii) It starts operating and maintaining such infrastructure facility on or after 1-4-1995.
- (iv) However, where an enterprise which developed such infrastructure facility transfers it to another enterprise on or after 1-4-1999, and such transferee enterprise operates and maintains it according to the agreement drawn up with the Government, etc., this section will apply to the transferee enterprise for the unexpired period of deduction (which was available to the first enterprise).

Meaning of "infrastructure facility": For this purpose, 'infrastructure facility' means :

- (i) a road, including toll road, a bridge or a rail system;
- (ii) a highway project including housing or other activities being an integral part of the highway project;
- (iii) a water supply project, water treatment system, irrigation project, sanitation and sewerage system or solid waste management system; and
- (iv) a port, airport, inland waterway or inland port or navigational channel in the sea.

Note – 1. Structures at the ports for storage, loading and unloading etc. will be included in the definition of port for the purpose of section 80-IA, if the concerned port authority has issued a certificate that the said structures form part of the port.

2. Effluent treatment and conveyance system is a part of water treatment system and would accordingly, qualify as an infrastructure facility for the purpose of section 80-IA.
3. The CBDT has, vide *Circular No. 4/2010 dated 18.5.2010*, clarified that widening of an existing road by constructing additional lanes as a part of a highway project by an undertaking would be regarded as a new infrastructure facility for the purpose of section 80-IA(4)(i). However, simply relaying of an existing road would not be classifiable as a new infrastructure facility for this purpose.

(2) **Telecom undertakings:** Any undertaking providing telecommunication services, whether basic or cellular, including radio paging, domestic satellite service or network of trunking (NOT), broadband network and internet services on or after 1 April, 1995 but on or before 31 March, 2005.

Meaning of "domestic satellite": 'Domestic satellite' has been defined by sub-section (12)(a) as "a satellite owned and operated by an Indian company for providing telecommunication services."

(3) **Industrial parks / Special Economic Zones:** Any undertaking which develops, develops and operates, or maintains and operates an industrial park or develops, or develops and operates, or maintains and operates, a special economic zone.

Conditions:

- (i) The undertaking begins to operate an industrial park or special economic zone in accordance with the scheme framed and notified by the Central Government.
- (ii) The scheme is notified by the Government for the period beginning on 1-4-1997 and ending on (i) 31-3-2011 for industrial parks and (ii) 31.3.2006 for SEZs.

Rule 18C lays down the following eligibility criteria for Industrial Parks to claim benefit under section 80-IA (4)(iii) -

- (1) The undertaking should begin to develop, develop and operate or maintain and operate an industrial park any time during the period from 1.4.2006 to 31.3.2009.
 - (2) The undertaking and the Industrial Park should be notified by the Central Government under the Industrial Park Scheme, 2008.
 - (3) The undertaking should continue to fulfill the conditions envisaged in the Industrial Park Scheme, 2008.
- (iii) However, where an undertaking develops an industrial park on or after 1.4.1999 or a special economic zone on or after 1.4.2001 and transfers the operation and maintenance to another undertaking (transferee undertaking), the deduction to the transferee undertaking shall be available for the remaining period in the ten consecutive assessment years, in such a manner as would have been available to the transferor undertaking, as if the operation and maintenance were not so transferred to the transferee undertaking.

(4) Power undertakings: Any undertaking which

(i) is set up in any part of India for the generation or generation and distribution of power. However, such undertaking must begin to generate power at any time during the period between 1.4.1993 and **31.3.2017**.

(ii) starts transmission or distribution by laying a network of new transmission or distribution lines at any time during the period from 1.4.1999 and **31.3.2017**. However, the deduction shall be allowed only in respect of profits derived from the laying of such network of new lines for transmission or distribution.

(iii) undertakes substantial renovation and modernisation of the existing network of transmission or distribution lines at any time during the period beginning on 1.4.2004 and ending on **31.3.2017**.

'Substantial renovation and modernisation' means an increase in the plant and machinery in the network of transmission or distribution lines by at least fifty per cent of the book value of such plant and machinery as on 1st April, 2004.

Telecom and Power undertakings should fulfill the following conditions:

(a) It is not formed by splitting up or reconstruction of a business already in existence. However, this condition shall not apply in the case of an undertaking which is formed as a result of reconstruction, re-establishment or revival of the business of any undertaking which has been discontinued in any previous year due to extensive damage or destruction of any building, machinery, plant or furniture owned by the assessee and used for the purposes of such business. Further, the reason for damage or destruction is due to any natural calamity or other unforeseen circumstances such as the following:

- (i) Flood, typhoon, hurricane, cyclone, earthquake or other natural calamity, or
- (ii) riot or civil disturbance, or
- (iii) accidental fire or explosion, or
- (iv) enemy action or action taken in combat,

and such business is re-established or revived within 3 years from the end of such previous year.

(b) The undertaking should not be formed by the transfer of machinery or plant previously used for any purpose.

However, these conditions do not apply in case of transfer, either in whole or in part, of machinery or plant previously used by a State Electricity Board. This is irrespective of whether or not such transfer is in pursuance of the splitting up or reconstruction of such State Electricity Board or reorganisation of the State Electricity Board under Part XIII of the Electricity Act, 2003.

Also, this condition shall not apply to second-hand machinery or plant imported by the assessee if the following conditions are fulfilled:

- (i) Such machinery or plant was not used in India prior to the date of installation by the assessee.
- (ii) No deduction on account of depreciation was allowed to any person prior to the date of installation by the assessee.

Further, where the total value of any plant or machinery previously used and now transferred to the new business does not exceed 20% of the total value of the machinery or plant used in the new business, such plant or machinery will be considered as new for this purpose.

- (5) Undertakings owned by an Indian company and set up for reconstruction or revival of a power generating plant

- (i) Clause (v) provides that the benefit under this section is available to an undertaking owned by an Indian company and set up for reconstruction or revival of a power generating plant.
- (ii) Such Indian company should be formed before 30.11.2005 with majority equity participation by public sector companies for the purposes of enforcing the security interest of the lenders to the company owning the power generating plant.
- (iii) Such Indian company should have been notified before 31.12.2005 by the Central Government for the purposes of this clause.
- (iv) Such undertaking should begin to generate or transmit or distribute power before 31.3.2011.

(ii) Rate of Deduction

- (1) The amount of deduction available will be 100% of the profits and gains derived from such business for ten consecutive assessment years commencing at any time during the periods specified in (iii) below.
- (2) However, in case of telecom undertakings covered under (2) above, the deduction will be 100% for the first 5 assessment years and thereafter 30% for the further 5 assessment years.

(iii) Period of tax holiday/concession

- (1) The assessee has the option to claim deduction for any 10 consecutive assessment years out of 15 years beginning from the year in which the undertaking or the enterprise develops or begins to operate the eligible business.
- (2) The assessee may also claim deduction for 10 out of 15 years beginning from the year in which an undertaking undertakes substantial renovation and modernization of the existing transmission or distribution lines.
- (3) In case of an infrastructure facility being a public facility like –

- (i) a road, including a toll road, bridge or rail system; or
- (ii) a highway project including housing or other activities which are an integral part of the highway project; or
- (iii) a water supply project, water treatment system, irrigation project, sanitation and sewerage system or solid waste management system,

the assessee can claim deduction for any 10 consecutive assessment years out of 20 years beginning from the year of operation.

(iv) Other provisions

- (1) For the purpose of computing deduction under this section, the profits and gains of the eligible business shall be computed as if such eligible business were the only source of income of the assessee during the relevant previous years [Sub-section (5)].
- (2) Where housing or other activities are an integral part of a highway project and the profits and gains have been calculated in accordance with the section, the profits shall not be liable to tax if the following conditions have been fulfilled:
 - (a) The profit has been transferred to a special reserve account; and
 - (b) the same is actually utilised for the highway project excluding housing and other activities before the expiry of 3 years following the year of transfer to the reserve account;
 - (c) The amount remaining unutilised shall be chargeable to tax as income of the year in which the transfer to the reserve account took place [Sub-section (6)].
- (3) The deduction shall be allowed to the industrial undertaking only if the accounts of the industrial undertaking for the relevant previous year have been audited by a chartered accountant and the assessee furnishes the audit report in the prescribed form, duly signed and verified by such accountant along with his return of income [Sub-section (7)].
- (4) Where any goods or services held for the purposes of the eligible business are transferred to any other business carried on by the assessee, or vice versa, and if the consideration for such transfer does not correspond with the market value of the goods or services then the profits and gains of the eligible business shall be computed as if the transfer was made at market value. However, if, in the opinion of the Assessing Officer, such computation presents exceptional difficulties, the Assessing Officer may compute the profits on such reasonable basis as he may deem fit [Sub-section (8)].
- (5) The deductions claimed and allowed under this section shall not exceed the profits and gains of the eligible business. Further, where deduction is claimed and allowed under this section for any assessment year no deduction in respect of such profits will be allowed under any other section under this chapter [Sub-section (9)].
- (6) The Assessing Officer is empowered to make an adjustment while computing the profit and gains of the eligible business on the basis of the reasonable profit that can be derived from the transaction, in case the transaction between the assessee carrying on the eligible business under section 80-IA and any other person is so arranged that the transaction

produces excessive profits to the eligible business [Sub-section (10)].

(7) The section empowers the Central Government to declare any class of industrial undertaking or enterprise as not being entitled to deduction under this section. The denial of exemption shall be with effect from such date as may be specified in the notification issued in the Official Gazette [Sub-section (11)].

(8) In the case of any amalgamation or demerger, by virtue of which the Indian company carrying on the eligible business is transferred to another Indian company, deduction under this section will be available as follows:

(a) No deduction will be available to the amalgamating company or the demerged company, as the case may be, in the year of amalgamation/demerger.

(b) The provisions of this section will apply to the amalgamated/resulting company as they would have applied to the amalgamating/demerged company if the amalgamation/demerger had not taken place [Sub-section (12)].

However, such transfer of benefit of deduction to the amalgamated/resulting company would not be available in respect of any enterprise or undertaking which is transferred in a scheme of amalgamation or demerger effected on or after 1.4.2007 [Sub-section (12A)].

(9) The deduction under section 80-IA would not be available in respect of any SEZ notified on or after 1.4.2005 in accordance with the Industrial Park Scheme, 2002 and notified schemes for SEZs, referred to in section 80-IA(4)(c)(iii) [Sub-section (13)].

(10) The tax holiday under section 80-IA would not be available in relation to a business referred to in sub-section (4) which is in the nature of a works contract awarded by any person (including the Central or State Government) and executed by the undertaking or enterprise referred to in section 80-IA(1).

3.2 Deduction in respect of profits and gains by an undertaking or enterprise engaged in development of SEZ [Section 80-IAB]

(i) Sub-section (1) provides for a deduction of 100% of profits and gains derived by an undertaking or an enterprise from any business of developing a SEZ for 10 consecutive assessment years.

(ii) The deduction is available to an assessee, being a Developer, whose gross total income includes any profits and gains derived by an undertaking or an enterprise from any business of developing a SEZ, notified on or after 1st April, 2005 under the SEZ Act, 2005.

(iii) Developer means -

(a) a person who, or

(b) a State Government which

has been granted a letter of approval by the Central Government under section 3(10) of the SEZ Act, 2005.

A developer includes –

(a) an authority and

(b) a Co-developer.

(iv) Co-developer means -

(a) a person who, or

(b) a State Government which

has been granted a letter of approval by the Central Government under section 3(12) of the SEZ Act, 2005.

(v) The deduction shall be allowed only if the accounts are audited by a Chartered Accountant and the audit report is furnished along with the return of income.

(vi) The assessee has the option of claiming the said deduction for any ten consecutive assessment years out of fifteen years beginning from the year in which a SEZ has been notified by the Central Government.

(vii) In a case where an undertaking, being a Developer, who develops a SEZ on or after 1.4.2005 and transfers the operation and maintenance of such SEZ to another Developer, the deduction under sub-section (1) shall be allowed to such transferee Developer for the remaining period in the ten consecutive assessment years as if the operation and maintenance were not so transferred to the transferee Developer.

(viii) The profits and gains from the eligible business should be computed as if such eligible business were the only source of income of the assessee during the relevant assessment year.

(ix) Where any goods or services held for the purposes of eligible business are transferred to any other business carried on by the assessee or, where any goods held for any other business are transferred to the eligible business and, in either case, if the consideration for such transfer as recorded in the accounts of the eligible business does not correspond to the market value thereof, then the profits eligible for deduction shall be computed by adopting market value for such goods or services. In case of exceptional difficulty in this regard, the profits shall be computed by the Assessing Officer on a reasonable basis.

Where due to the close connection between the assessee and the other person or for any other reason, it appears to the Assessing Officer that the profits of eligible business is increased to more than the ordinary profits, the Assessing Officer shall compute the amount of profits on a reasonable basis for allowing the deduction. The Assessing Officer is empowered to make an adjustment while computing the profit and gains of the eligible business on the basis of the reasonable profit that can be derived from the transaction, in case the transaction between the assessee carrying on the eligible business under section 80-IAB and any other person is so arranged that the transaction produces excessive profits to the eligible business .

(x) The deduction under this section should not exceed the profits of such eligible business

of the undertaking or the enterprise.

(xi) Further, where any amount of profits of an undertaking or enterprise is allowed as deduction under this section, no deduction under any other provision of Chapter VI-A is allowable in respect of such profits.

(xii) The Central Government may notify that the benefit conferred by this section shall not apply to any class of industrial undertaking or enterprise with effect from any specified date.

(xiii) Where any undertaking of an Indian company which is entitled to the deduction under this section is transferred before the expiry of the period of deduction to another Indian company in a scheme of amalgamation or demerger, no deduction shall be admissible to the amalgamating or demerged company for the previous year in which the amalgamation or demerger takes place and the amalgamated or the resulting company shall be entitled to the deduction as if the amalgamation or demerger had not taken place.

3.3 Deductions in respect of profits and gains from certain industrial undertakings other than infrastructure development undertakings, etc. [Section 80-IB]

(i) Applicability

This section will be applicable to assesses, whose gross total income includes any profits and gains derived from any of the following business activities -

- (1) An industrial undertaking including a small scale industrial undertaking (SSI)
- (2) A ship
- (3) A hotel, multiplex theatre or convention centre.
- (4) Any company carrying on scientific and industrial research and development
- (5) An undertaking which begins commercial production or refining of mineral oil or commercial production of natural gas in licensed blocks.
- (6) An undertaking engaged in construction and development of housing projects approved by a local authority
- (7) An industrial undertaking deriving profits from the business of setting up and operating a cold chain facility for agricultural produce.
- (8) An undertaking deriving profits from the business of processing, preservation and packaging of fruits or vegetables or meat and meat products or poultry or marine or dairy products or from the integrated business of handling, storage and transportation of foodgrains.
- (9) An undertaking operating and maintaining a hospital in a rural area.

(ii) Conditions to be fulfilled, amount of deduction and period of deduction

The rate and period of deduction and the conditions required to be satisfied by the different categories of businesses are given below:

(1) Industrial undertakings [Sub-sections (2), (3), (4) and (5)]

Conditions: In order to be eligible to claim deduction under section 80-IB, an industrial undertaking must fulfill the following conditions:

- (i) It is not formed by splitting up, or the reconstruction of, an existing business.
- (ii) It is not formed by the transfer to a new business of any plant or machinery previously used for any other purpose.

In order to satisfy this condition, the total value of the plant or machinery so transferred should not exceed 20% of the value of the total plant or machinery used in the new business.

For the purpose of this condition, machinery or plant would not be regarded as previously used if it had been used by any person other than the assessee provided the following conditions are satisfied:

- (a) such plant or machinery was not used in India at any time prior to the date of its installation by the assessee;
- (b) the plant or machinery was imported into India from a foreign country;
- (c) no deduction in respect of depreciation of such plant or machinery has been allowed to any person at any time prior to the date of installation by the assessee.
- (iii) It manufactures or produces any article or thing (except those specified in the Eleventh Schedule) or operates a cold storage plant, in any part of India. However, in the case of an SSI, restriction regarding goods specified in the Eleventh Schedule shall not apply.
- (iv) In case of a manufacturing industrial unit, it should employ 10 or more workers (if manufacture is carried on with the aid of power), or 20 or more workers (if manufacture is carried on without the use of power).

Rate and period of deduction: The rate and period of deduction for different categories of industrial undertakings are given below:

- (i) The amount of deduction for an industrial undertaking will be 25% of the profits and gains derived from such industrial undertaking for a period of 10 consecutive assessment years starting with the initial assessment year, i.e. the assessment year relevant to the previous year in which the industrial undertaking begins to manufacture or produce articles or things. In the case of a company, the rate of deduction will be 30%. Again, where the assessee is a co-operative society, the period of 10 consecutive years will become 12 consecutive assessment years.

However, in order to claim the amount of deduction specified here, the assessee must fulfil the following conditions:

- (a) It must have begun to manufacture or produce articles or things or operate the plants at any time between 1-4-1991 and 31-3-1995, or such further period as specified by the Central Government in the Official Gazette with respect to such class of industries.
- (b) In case of an SSI, the period specified for the above purpose is 1-4-1995 and 31-3-2002.

“Small-scale industrial undertaking” means an industrial undertaking which is, as on the last day of the previous year, regarded as a small-scale industrial undertaking under section 11B of the Industrial (Development and Regulation) Act, 1951.

(ii) In case of the following categories of industrial undertakings, the amount and period of deduction will be 100% of the profits and gains derived from the industrial undertaking for the initial 5 assessment years and thereafter 25% of such profits and gains (in case of a company, the rate is 30%):

- (a) an industrial undertaking located in an industrially backward State specified in the Eighth Schedule. In this case, the total period of deduction should not exceed 10 consecutive assessment years provided the industrial undertaking begins manufacture or production of articles or things or operation of cold storage plant between 1-4-1993 and 31-3-2004. Where the industrial undertaking is a co-operative society, the deduction will be available for 12 assessment years (instead of 10), including the initial assessment year [Sub-section (4)]

However, the terminal date for setting up of industrial undertakings in the State of Jammu and Kashmir is 31.3.2012. A negative list has also been provided in Part C of the Thirteenth Schedule to specify the commodities which should not be manufactured or produced by such undertakings. The list includes Cigarettes/cigars of tobacco, manufactured tobacco and substitutes, distilled/brewed alcoholic drinks and aerated branded beverages and their concentrates.

The Eighth Schedule specifies the following to be industrially backward States and Union Territories: (1) Arunachal Pradesh (2) Assam (3) Goa (4) Himachal Pradesh (5) Jammu & Kashmir (6) Manipur (7) Meghalaya (8) Mizoram (9) Nagaland (10) Sikkim (11) Tripura (12) Andaman and Nicobar Islands (13) Dadra and Nagar Haveli (14) Daman & Diu (15) Lakshadweep (16) Pondicherry.

In case of notified industries in the North-eastern region of India, the amount of deduction will be 100% of the profits and gains for 10 consecutive assessment years. However, no such deduction shall be allowed to any undertaking or enterprise which is eligible for claiming benefit under section 80-IC.

“North-eastern region” means the region comprising the States of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim and Tripura.

- (b) an industrial undertaking located in such industrially backward districts of Category A or B, as the Central Government may, having regard to the prescribed guidelines, specify in the Official Gazette.

In case of Category A industries, the total period of deduction is 10 consecutive assessment years (except in case of a co-operative society where it is 12 years) provided the undertaking begins manufacture or production of articles or things or operation of cold storage plant between 1-10-1994 and 31-3-2004.

In case of Category B industries, the total period of deduction is 8 consecutive assessment years (except in case of a co-operative society where it is 12 years) provided the undertaking begins manufacture or production of articles or things or operation of

cold storage plant between 1-10-1994 and 31-3-2004.

(2) Ships [Sub-section (6)]

Conditions: In order to claim deduction under this section, the following conditions must be fulfilled:

- (i) It should be owned by an Indian company and should be wholly used for its business purposes.
- (ii) It was not owned or used in Indian territorial waters by any person resident in India prior to the date of its acquisition by the Indian company.
- (iii) It was brought into use by the Indian company at any time between 1.4.1991 and 31.3.1995.

Rate and period of deduction: The amount of deduction will be 30% of the profits and gains derived from such a ship for a period of 10 consecutive assessment years including the initial assessment year i.e., the assessment year relevant to the previous year in which the ship is first bought into use.

(3) Hotels [Sub-section (7)]

Conditions: In order to claim deduction under this section, the following conditions must be fulfilled:

- (i) The business of the hotel is not formed by splitting up, or the reconstruction of, an existing business or by the transfer to the new business of a building previously used as a hotel or of any plant or machinery previously used for any purpose.
- (ii) The business of the hotel is owned and carried on by a company registered in India with a paid up capital of not less than ₹ 5,00,000.
- (iii) The hotel is approved by the prescribed authority.

Rate and period of deduction: The rate and period of deduction for different categories of hotels are given below.

- (i) In case of hotels located in a hilly area or a rural area or a place of pilgrimage or such other place as the Central Government, having regard to the need for development of infrastructure for tourism in any place or such other considerations, may specify in the Official Gazette, the amount of deduction will be 50% of the profits and gains derived from such business.

The deduction will be available for a period of 10 consecutive assessment years beginning with the initial assessment year i.e. the assessment year relevant to the previous year in which the business of the hotel starts functioning.

In order to claim the deduction, the hotel must start functioning at any time between 1-4-1990 and 31-3-1994 or between 1-4-1997 and 31-3-2001, and should be approved by the prescribed authority for the purpose of deduction under this clause.

However, hotels situated within the municipal jurisdiction of Calcutta, Chennai, Mumbai and

Delhi which has started functioning between 1-4-1997 and 31-3-2001 would not be eligible for this deduction.

"Hilly area" means any area located at a height of one thousand metres or more above the sea level.

"Place of pilgrimage" means a place where any temple, mosque, gurudwara, church or other place of public worship of renown throughout any State or States is situated.

"Rural area" means any area other than -

- (a) an area which is comprised within the jurisdiction of a municipality or a cantonment board which has a population of not less than 10,000 according to the preceding census of which relevant figures have been published before the first day of the previous year; or
 - (b) an area within such distance not being more than 15 kilometers from the local limits of any municipality or cantonment board referred to in sub-clause (i), as the Central Government may, having regard to the stage of development of such area including the extent of, and scope for, urbanisation of such area and other relevant considerations specify in this behalf by notification in the Official Gazette.
- (ii) In case of hotels located in any place other than those specified in (i) above, the amount of deduction will be 30% of the profits and gains derived from such business.

The deduction will be available for a period of 10 consecutive assessment years beginning with the initial assessment year.

In order to claim the deduction, the hotel must start functioning at any time between 1-4-1991 and 31-3-1995 or between 1-4-1997 and 31-3-2001, and should be approved by the prescribed authority for the purpose of deduction under this clause. However, hotels situated within the municipal jurisdiction of Calcutta, Chennai, Mumbai and Delhi which have started functioning between 1-4-1997 and 31-3-2001 would not be eligible for this deduction.

(4) Companies carrying on scientific and industrial research and development [Sub-sections (8) & (8A)]

- (i) The company is registered in India.
- (ii) The company has the main object of scientific and industrial research and development.
- (iii) The company is approved by the prescribed authority at any time before 1-4-1999.

Rate and period of deduction: Deduction will be calculated at 100% of the profits and gains from such business for 5 assessment years including the initial assessment year.

Sub-section (8A) provides for deduction in case of a company carrying on scientific research and development if such company fulfils the following conditions:

- (i) It is registered in India.
- (ii) It has the main object of scientific and industrial research and development.
- (iii) It is for the time being approved by the prescribed authority at any time after 31.3.2000 but before 1.4.2007.

(iv) It fulfils such other conditions as may be prescribed.

The amount of deduction shall be 100% of the profits and gains of such business.

The deduction will be available for a period of 10 consecutive assessment years starting with the initial assessment year i.e. the assessment year relevant to the previous year in which the company is approved by the prescribed authority.

(5) Undertakings engaged in commercial production or refining of mineral oil or commercial production of natural gas in licensed blocks [Sub-section (9)]

Conditions: In order to claim deduction under the section, the undertaking should be engaged in commercial production or refining of mineral oil or commercial production of natural gas in licensed blocks.

The following further conditions should be fulfilled –

(1) In case of an undertaking engaged in commercial production of mineral oil -

(i) Where such operations are carried out in the North Eastern Region, it has begun commercial production before 1.4.1997.

(ii) Where such operations are carried out in any part of India, it begins commercial production on or after 1.4.1997.

A sunset clause for tax holiday in respect of certain undertakings engaged in commercial production of mineral oil has now been inserted. Accordingly, the above deduction for commercial production of mineral oil will not be available for blocks licensed under a contract awarded after 31.3.2011 under the New Exploration Licensing Policy or in pursuance of any law for the time being in force or by the Central or a State Government in any other manner.

(2) In case of an undertaking engaged in refining of mineral oil, it begins refining of mineral oil on or after 1-10-1998 but not later than 31.3.2012.

(3) In case of an undertaking engaged in commercial production of natural gas in licensed blocks –

(1) the blocks are licensed under the VIII Round of bidding for award of exploration contracts ("NELP-VIII") under the New Exploration Licensing Policy announced by the Government of India vide Resolution No.O-19018/22/95-ONG.DO.VL, dated 10th February, 1999; or

(2) the blocks are licensed under the IV Round of bidding for award of exploration contracts for Coal Bed Methane blocks

and begins commercial production of natural gas on or after 1st April, 2009.

Note – All blocks licensed under a single contract to be treated as a single "undertaking"

For the purposes of claiming deduction under sub-section (9), all blocks licensed under a single contract, which has been awarded -

(1) under the New Exploration Licencing Policy announced by the Government of India vide Resolution No.O-19018/22/95-ONG.DO.VL, dated 10.2.1999 or

- (2) in pursuance of any law for the time being in force or
 - (3) by Central or a State Government in any other manner
- shall be treated as a single "undertaking".

This definition of "undertaking" will be applicable both in relation to mineral oil and natural gas.

Rate and period of deduction: The deduction will be allowed at 100% of the profits and gains from such business for 7 consecutive assessment years including the initial assessment year i.e. the assessment year relevant to the previous year in which the undertaking commences the commercial production or refining of mineral oil.

(6) Housing projects [Sub-section (10)]

Conditions: In order to be eligible to claim deduction under section 80-IB, an undertaking developing and building housing projects must fulfil the following conditions:

- (i) The undertaking has commenced or commences development and construction of the housing project on or after 1.10.1998. The housing project should be completed within 4 years from the end of the financial year in which the project is approved by the local authority. In respect of projects approved by the local authority before 1.4.2004, the construction should be completed on or before 31.3.2008. On account of the large scale widespread downturn and the consequent slump in the housing sector, the period for completion of housing projects to qualify for tax benefit under section 80-IB has been extended from 4 years to 5 years from the end of the financial year in which the housing project is approved by the local authority, in case of housing projects approved on or after 1.4.2005. For this purpose, the date of approval would be the date on which the building plan is first approved by the local authority and the date of completion of the housing project would be the date on which the completion certificate is issued by such authority.
- (ii) The projects must be approved before 31.3.2008 by a local authority.
- (iii) The project is on a plot of land which is at least one acre.

In order to encourage the reconstruction and redevelopment of slum dwellings, the conditions that the construction should be completed within 4 years and that the minimum plot size should be one acre have been relaxed. The relaxation is in respect of housing projects carried out in accordance with a scheme framed by the Central Government or a State Government for reconstruction or redevelopment of existing buildings in areas declared to be slum areas. Such a scheme should be notified by the Board in this behalf.

- (iv) The residential unit has a maximum built-up area of 1000 sq.ft. (if such residential unit is situated in Delhi or Mumbai or within 25 km from the municipal limits of these cities) or 1500 sq.ft. at any other place.

- (v) the built-up area of the shops and other commercial establishments included in the housing project should not exceed five percent. of the aggregate built-up area of the housing project or 2000 sq. ft., whichever is less.

The expression "built-up area" has been defined to mean the inner measurements of the

residential unit at the floor level, including the projections and balconies, as increased by the thickness of the walls but not including the common areas shared with other residential units.

The above restrictions regarding built-up area of shops and other commercial establishments have been relaxed in respect of housing projects approved on or after 1.4.2005. The permissible built-up area of shops and other commercial establishments included in the housing project has been increased from 5% of the aggregate built-up area or 2,000 sq. feet, whichever is lower, to 3% of the aggregate built-up area of the housing project or 5,000 sq. ft., whichever is higher.

However, these benefits are not available in respect of a housing project approved by the local authority before 1st April, 2005.

(vi) The undertaking which develops and builds the housing project shall not be allowed to allot more than one residential unit in the housing project to the same person, not being an individual. Where the person is an individual, no other residential unit in such housing project should be allotted to any of the following persons:-

- (1) the individual himself or spouse or minor children of such individual;
- (2) the Hindu undivided family in which such individual is the karta
- (3) any person representing such individual, the spouse or minor children of such individual or the Hindu undivided family in which such individual is the karta.

Rate and period of deduction: The deduction will be allowed at 100% of the profits derived from such project in any previous year relevant to any assessment year.

***Note** – The main aim of the tax concession under section 80-IB(10) is to provide tax benefit to the person undertaking the investment risk i.e. the actual developer. However, any person undertaking pure contract risk is not entitled to the tax benefit. Accordingly, the benefit under sub-section (10) would not be available to any undertaking which executes the housing project as a works contract awarded by any other person (including the Central or State Government).*

(7) Cold chain facilities for agricultural produce [Sub-section (11)]

Conditions: In order to claim deduction under this section, the assessee must fulfil the following conditions:

- (i) The industrial undertaking should be deriving profit from the business of setting up and operating a cold chain facility for agricultural produce.
- (ii) The undertaking must begin to operate such facility on or after 1-4-1999 but before 1-4-2004.

For the purposes of this section, "cold chain facility" means a chain of facilities for storage or transportation of agricultural produce under scientifically controlled conditions including refrigeration and other facilities necessary for the preservation of such produce.

Rate and period of deduction: The amount of deduction will be 100% of the profits and gains derived from such industrial undertaking for a period of 5 consecutive assessment years starting with the initial assessment year i.e. the assessment year relevant to the previous year in which the industrial undertaking begins to operate the cold chain facility. Thereafter, the deduction allowable

is 25% of such profits and gains (30% in case of a company) for the next 5 assessment years.

Where the assessee is a co-operative society, the period of 10 consecutive years will become 12 consecutive assessment years.

(8) Undertakings engaged in handling of foodgrains etc. [Sub-section (11A)]

Conditions: In order to claim deduction, the undertaking should fulfill the following conditions:

(i) It should be deriving profits from the business of processing, preservation and packaging of fruits or vegetables or from the integrated business of handling, storage and transportation of foodgrains.

(ii) It should begin to operate such business on or after 1.4.2001.

(iii) The benefit of deduction under sub-section (11A) has now been extended to an undertaking deriving profit from the business of processing, preservation and packaging of meat or meat products or poultry or marine or dairy products, if it begins to operate such business on or after 1.4.2009.

Rate and period of deduction: The amount of deduction shall be 100% of the profits and gains derived from such business for 5 assessment years beginning with the initial assessment year i.e. the assessment year relevant to the previous year in which the undertaking begins such business. Thereafter, the deduction allowable is 25%. In the case of a company, the rate of 25% shall be substituted by 30%. The total period of deduction should not exceed 10 consecutive assessment years.

(9) Undertakings operating and maintaining a hospital in a rural area [Sub-section (11B)]

(i) The profits derived by an undertaking from the business of operating and maintaining a hospital in a rural area is eligible for a deduction of hundred per cent of such profits and gains.

(ii) The deduction is available for a period of five consecutive assessment years beginning from the initial assessment year (i.e. assessment year relevant to the previous year in which the undertaking begins to provide medical services).

(iii) The undertaking would be eligible for the deduction if such hospital -

(a) is constructed during the period beginning on the 1st October, 2004 and ending on 31st March, 2008;

(b) has at least one hundred beds for patients; and

(c) is constructed in accordance with the regulations in force of the local authority.

(iv) Further, for claiming the deduction, the assessee has to file along with the return of income, an audit report in the prescribed form and in the prescribed manner, duly signed and verified by a chartered accountant.

(10) Undertakings operating and maintaining a hospital located anywhere in India, other than the excluded area [Sub-section (11C)]

(i) Sub-section (11C) provides a five year tax holiday to hospitals set up in other than the excluded areas. Excluded area means the area comprising the urban agglomerations of

Greater Mumbai, Delhi, Kolkata, Chennai, Hyderabad, Bangalore and Ahmedabad, the districts of Faridabad, Gurgaon, Ghaziabad, Gautam Budh Nagar and Gandhi Nagar and the city of Secunderabad.

(ii) To be eligible for this benefit, the hospital should be constructed and should start functioning between 1.4.08 to 31.3.2013. Further, it should have at least 100 beds for patients. For claiming this benefit, it is necessary that the audit report signed and verified by a Chartered Accountant certifying that deduction has been correctly claimed should be filed along with the company's return of income.

(iii) The construction of the hospital should be in accordance with the regulations or bye-laws of the local authority. The hospital shall be deemed to have been constructed on the date on which a completion certificate in respect of such construction is issued by the local authority concerned.

(iii) Other Provisions

(1) For the purpose of computing deduction under this section, the profits and gains of the eligible business shall be computed as if such eligible business were the only source of income of the assessee during the relevant previous years.

(2) The accounts of the industrial undertaking for the relevant previous year should be audited by a chartered accountant and the assessee should furnish the audit report in the prescribed form, duly signed and verified by such accountant along with the return of income.

(3) Where any goods held for the purposes of the eligible business are transferred to any other business carried on by the assessee, or *vice versa*, and if the consideration for such transfer does not correspond with the market value of the goods, then, the profits and gains of the eligible business shall be computed as if the transfer was made at market value. However, if, in the opinion of the Assessing Officer, such computation presents exceptional difficulties, the Assessing Officer may compute the profits on such reasonable basis as he may deem fit.

(4) The deduction claimed and allowed under this section shall not exceed the profits and gains of the eligible business. Further, where deduction is claimed and allowed under this section for any assessment year, no deduction in respect of such profits will be allowed under any other section under this Chapter.

(5) Where it appears to the Assessing Officer that the assessee derives more than ordinary profits from the eligible business due to close connection between him and any other person, or due to any other reason, the Assessing Officer may consider such profits as may be reasonable for the purpose of computing deduction under this section. The Assessing Officer is empowered to make an adjustment while computing the profit and gains of the eligible business on the basis of the reasonable profit that can be derived from the transaction, in case the transaction between the assessee carrying on the eligible business under section 80-IB and any other person is so arranged that the transaction produces excessive profits to the eligible business.

(6) The section empowers the Central Government to declare any class of industrial undertaking or enterprise as not being entitled to deduction under this section. The denial of exemption shall be with effect from such date as may be specified in the notification issued in the Official Gazette.

(7) In the case of any amalgamation or demerger, by virtue of which the Indian company carrying on the eligible business is transferred to another Indian company, deduction under this section will be available as follows:

- (a) No deduction will be available to the amalgamating company or the demerged company, as the case may be, in the year of amalgamation/demerger.
- (b) The provisions of this section will apply to the amalgamated/resulting company as they would have applied to the amalgamating/demerged company, if the amalgamation/demerger had not taken place.

3.4 Special provisions in respect of certain undertakings or enterprises in certain special category States [Section 80-IC]

(i) This section allows tax holiday to the new undertakings or existing undertakings on their substantial expansion in the states of Himachal Pradesh, Uttaranchal, Sikkim and North-Eastern States.

(ii) For this purpose, "substantial expansion" means increase in the investment in plant and machinery by at least 50% of the book value of the plant and machinery (before taking depreciation in any year), as on the first day of the previous year in which the substantial expansion is undertaken.

(iii) The tax holiday in the states of Himachal Pradesh and Uttaranchal will be 100% for the first five assessment years and 25% (30% in the case of a company) for the next five assessment years.

(iv) However, tax holiday in the states of Sikkim and North-Eastern States will be 100% for ten assessment years commencing from the initial assessment year.

(v) For the purpose of exemption, two classifications have been made and the Thirteenth Schedule and Fourteenth Schedule have been inserted in the Income-tax Act. The said Schedules specify the list of articles and the States for the purposes of availing deduction under this section.

(vi) The first classification is applicable to undertakings or enterprises which manufacture or produce any article or thing, not being any article or thing specified in the 13th Schedule (namely, tobacco, aerated beverages, pollution causing paper and paper products etc.) in any export processing zone or integrated infrastructure development centre or industrial growth centre or industrial estate or industrial park or software technology park or industrial areas or theme park in these States as notified by the Board.

(vii) The second classification is applicable to those undertakings or enterprises which manufacture or produce article or thing specified in the 14th Schedule only in these States without any specification of the specified zone, area etc.

(viii) The period during which the undertakings in different States should begin or should have begun to manufacture or produce are given hereunder -

Himachal Pradesh and Uttaranchal	From 7.1.03 and ending before 1.4.2012
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Sikkim	From 23.12.02 and ending before 1.4.2007
North-Eastern States	From 24.12.97 and ending before 1.4.2007

(ix) No benefit to these undertakings will be available under any of the sections in Chapter VIA in relation to the profits and gains of such undertakings.

(x) While computing the total period of 10 years the period for which the benefit under section 80IB has already been availed, if any, shall also be included.

(xi) The other conditions such as that it should not be formed by splitting or reconstruction of a business already in existence, or by transfer to a new business of plant and machinery previously used for any purpose are the same as are applicable for claiming benefit under section 80IA.

(xii) Where any goods or services held for the purposes of the eligible business are transferred to any other business carried on by the assessee, or vice versa, and if the consideration for such transfer does not correspond with the market value of the goods or services then the profits and gains of the eligible business shall be computed as if the transfer was made at market value. However, if, in the opinion of the Assessing Officer, such computation presents exceptional difficulties, the Assessing Officer may compute the profits on such reasonable basis as he may deem fit.

(xiii) The deductions claimed and allowed under this section shall not exceed the profits and gains of the eligible business. Further, where deduction is claimed and allowed under this section for any assessment year no deduction in respect of such profits will be allowed under any other section under this chapter.

(xiv) The Assessing Officer is empowered to make an adjustment while computing the profit and gains of the eligible business on the basis of the reasonable profit that can be derived from the transaction, in case the transaction between the assessee carrying on the eligible business under section 80-IC and any other person is so arranged that the transaction produces excessive profits to the eligible business.

3.5 Tax holiday in respect of profits and gains from the business of hotel or business of building, owning and operating a convention centre in NCR [Section 80-ID]

(i) Section 80-ID provides for a deduction of 100% of profits and gains derived by an undertaking from the eligible business i.e. business of hotel or business of building, owning and operating a convention centre in a specified area, for a period of 5 consecutive assessment years beginning from the year in which such hotel starts functioning or convention centre starts operating on a commercial basis.

(ii) However, such hotel or convention centre should be constructed at any time during the period from 1.4.2007 to 31.7.2010.

(iii) Specified area means the National Capital Territory of Delhi and the districts of Faridabad, Gurgaon, Gautam Budh Nagar and Ghaziabad. This is to boost the construction activity in NCR in view of the upcoming Common Wealth Games in 2010.

(iv) The benefit of this five year tax holiday has now been extended to new two, three or four

star hotels located in specified districts having a World Heritage Site. The specified districts are Agra, Jalgaon, Aurangabad, Kancheepuram, Puri, Bharatpur, Chhatarpur, Thanjavur, Bellary, South 24 Parganas, Chamoli, Raisen, Gaya, Bhopal, Panchmahal, Kamrup, Goalpara, Nagaon, North Goa, South Goa, Darjeeling and Nilgiri. For availing this benefit, the hotel should be constructed and should start functioning between 1.4.08 to 31.3.2013.

(v) "Convention centre" means a building of a prescribed area comprising of convention halls to be used for the purpose of holding conferences and seminars, being of such size and number and having such other facilities and amenities, as may be prescribed.

Rule 18DE prescribes the following conditions to be fulfilled by a convention centre in order to be eligible for deduction under section 80-ID:

- (a) the convention centre shall have a minimum covered plinth area of 25,000 sq. mts;
- (b) it shall have minimum of 3,000 seating capacity;
- (c) there shall be minimum of 10 convention halls;
- (d) the convention centre shall have convention halls, whether called conference halls or seminar halls or auditorium for holding seminars and conferences;
- (e) each convention hall of the convention centre shall be equipped with modern public address system, slide and power-point projection system and LCD projector or video screening facility;
- (f) the convention centre shall have a documentation centre with computers and printers, telephone with STD or ISD facilities, e-mail, photocopy and scanning facility along with trained operators to provide these facilities;
- (g) the convention centre shall be completely centrally air-conditioned;
- (h) the convention centre shall have adequate parking facility and other public convenience as per local building regulations and should also fulfill all local building regulations in respect of fire and safety.

In addition to the above facilities, the convention centers may have the following:

- (a) an amphitheatre and landscaped open spaces for outdoor conference or seminar related activities;
- (b) a kitchen, dining facility, cafeteria or restaurant only to support events in the convention centre.

(vi) "Hotel" means a hotel of two-star, three-star or four-star category as classified by the Central Government;

(vii) Such business should not be formed by the splitting up, or the reconstruction, of a business already in existence. It should not be formed by the transfer to a new business of a building previously used as a hotel or convention center. Further, it should not be formed by

the transfer to a new business of machinery or plant previously used for any purpose exceeding 20% of the total value of machinery and plant used in the business.

(viii) For this purpose, any machinery or plant which was used outside India by any person other than the assessee shall not be regarded as machinery or plant previously used for any purpose if the following conditions are fulfilled:

- (a) such machinery or plant was not at any time used in India;
- (b) such machinery or plant is imported into India from any country outside India; and
- (c) no deduction on account of depreciation has been allowed in respect of such machinery or plant to any person earlier.

(ix) The profits and gains from the eligible business should be computed as if such eligible business were the only source of income of the assessee during the relevant assessment year.

(x) The deduction under this section should not exceed the profits of such eligible business of the undertaking.

(xi) The deduction shall be allowed only if the accounts are audited by a Chartered Accountant, who is also required to certify that the deduction has been correctly claimed. Further, the audit report should be furnished along with the return of income.

(xii) Further, where any amount of profits of an undertaking or enterprise is allowed as deduction under this section, no deduction under any other provision of Chapter VI-A or section 10AA is allowable in respect of such profits.

(xiii) Where any goods or services held for the purposes of eligible business are transferred to any other business carried on by the assessee or, where any goods held for any other business are transferred to the eligible business and, in either case, if the consideration for such transfer as recorded in the accounts of the eligible business does not correspond to the market value thereof, then the profits eligible for deduction shall be computed by adopting market value for such goods or services. In case of exceptional difficulty in this regard, the profits shall be computed by the Assessing Officer on a reasonable basis.

(xiv) Similarly, where due to the close connection between the assessee and the other person or for any other reason, it appears to the Assessing Officer that the profits of eligible business is increased to more than the ordinary profits, the Assessing Officer shall compute the amount of profits on a reasonable basis for allowing the deduction. The Assessing Officer is empowered to make an adjustment while computing the profit and gains of the eligible business on the basis of the reasonable profit that can be derived from the transaction, in case the transaction between the assessee carrying on the eligible business under section 80-ID and any other person is so arranged that the transaction produces excessive profits to the eligible business .

(xv) The Central Government may notify that the benefit conferred by this section shall not apply to any class of undertaking with effect from any specified date.

3.6 Tax holiday in respect of profits and gains from eligible business of certain undertakings in North-Eastern States [Section 80-IE]

(i) This section provides for an incentive to an undertaking which has during the period between 1st April, 2007 and 1st April, 2017, begun or begins, in any of the North-Eastern States (i.e., the States of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim and Tripura) -

- (1) to manufacture or produce any eligible article or thing;
 - (2) to undertake substantial expansion to manufacture or produce any eligible article or thing;
 - (3) to carry on any eligible business.
- (ii) Eligible article or thing means the article or thing other than the following -
- (a) goods falling under Chapter 24 of the First Schedule to the Central Excise Tariff Act, 1985 which pertains to tobacco and manufactured tobacco substitutes;
 - (b) pan masala as covered under Chapter 21 of the First Schedule to the Central Excise Tariff Act, 1985;
 - (c) plastic carry bags of less than 20 microns; and
 - (d) goods falling under Chapter 27 of the First Schedule to the Central Excise Tariff Act, 1985 produced by petroleum oil or gas refineries.
- (iii) Substantial expansion means increase in the investment in the plant and machinery by at least 25% of the book value of plant and machinery (before taking depreciation in any year), as on the first day of the previous year in which the substantial expansion is undertaken.
- (iv) Eligible business means the business of -
- (a) hotel (not below two star category);
 - (b) adventure and leisure sports including ropeways;
 - (c) providing medical and health services in the nature of nursing home with a minimum capacity of 25 beds;
 - (d) running an old-age home;
 - (e) operating vocational training institute for hotel management, catering and food craft, entrepreneurship development, nursing and para-medical, civil aviation related training, fashion designing and industrial training;
 - (f) running information technology related training centre;
 - (g) manufacturing of information technology hardware; and
 - (h) Bio-technology.

(v) Where the gross total income of an assessee includes any profits and gains derived by such an undertaking, a deduction of 100% of the profits and gains derived from such business for 10 consecutive assessment years commencing with the initial assessment year shall be allowed in computing the total income of the assessee. Initial assessment year means the assessment year relevant to the previous year in which the undertaking begins to manufacture or produce articles or things, or completes substantial expansion.

(vi) However, the following conditions have to be fulfilled by the undertaking for claiming benefit of deduction under this section -

(1) It should not be formed by splitting up, or the reconstruction, of a business already in existence (except in circumstances provided in section 33B)

(2) It should not be formed by the transfer to a new business of machinery or plant previously used for any purpose exceeding 20% of the total value of machinery and plant used in the business.

(vii) For this purpose, any machinery or plant which was used outside India by any person other than the assessee shall not be regarded as machinery or plant previously used for any purpose if the following conditions are fulfilled:

(a) such machinery or plant was not at any time used in India;

(b) such machinery or plant is imported into India from any country outside India; and

(c) no deduction on account of depreciation has been allowed in respect of such machinery or plant to any person earlier.

(viii) Where deduction has been allowed under this section in computing the total income of the assessee, no deduction shall be allowed under any other section contained in Chapter VIA or section 10AA in relation to the profits and gains of the undertaking.

(ix) Further, no deduction shall be allowed to any undertaking under this section, where the total period of deduction inclusive of the period of deduction under this section, or under section 80-IC or under the second proviso to sub-section (4) of section 80-IB, as the case may be, exceeds 10 assessment years.

(x) The profits and gains from the eligible business should be computed as if such eligible business were the only source of income of the assessee during the relevant assessment year.

(xi) The deduction under this section should not exceed the profits of such eligible business of the undertaking.

(xii) The deduction shall be allowed only if the accounts are audited by a Chartered Accountant, who is also required to certify that the deduction has been correctly claimed. Further, the audit report should be furnished along with the return of income.

(xiii) Where any goods or services held for the purposes of eligible business are transferred to any other business carried on by the assessee or, where any goods held for any other business are transferred to the eligible business and, in either case, if the consideration for

such transfer as recorded in the accounts of the eligible business does not correspond to the market value thereof, then the profits eligible for deduction shall be computed by adopting market value for such goods or services. In case of exceptional difficulty in this regard, the profits shall be computed by the Assessing Officer on a reasonable basis.

The Assessing Officer is empowered to make an adjustment while computing the profit and gains of the eligible business on the basis of the reasonable profit that can be derived from the transaction, in case the transaction between the assessee carrying on the eligible business under section 80-IE and any other person is so arranged that the transaction produces excessive profits to the eligible business.

(xiv) Similarly, where due to the close connection between the assessee and the other person or for any other reason, it appears to the Assessing Officer that the profits of eligible business is increased to more than the ordinary profits, the Assessing Officer shall compute the amount of profits on a reasonable basis for allowing the deduction.

(xv) The Central Government may notify that the benefit conferred by this section shall not apply to any class of undertaking with effect from any specified date.

(xvi) Where any undertaking of an Indian company which is entitled to the deduction under this section is transferred before the expiry of the period of deduction to another Indian company in a scheme of amalgamation or demerger, no deduction shall be admissible to the amalgamating or demerged company for the previous year in which the amalgamation or demerger takes place and the amalgamated or the resulting company shall be entitled to the deduction as if the amalgamation or demerger had not taken place.

3.7 Deduction in respect of profits and gains from business of collecting and processing of bio-degradable waste [Section 80JJA]

(i) This section provides for deduction in respect of profits and gains from the business of collecting and processing bio-degradable waste.

(ii) The deduction is allowable where the gross total income of an assessee includes any profits and gains derived from any of the following businesses -

- (1) collecting and processing or treating of bio-degradable waste for generating power, or
- (2) producing bio-fertilizers, bio-pesticides or other biological agents, or
- (3) producing bio-gas, or
- (4) making pellets or briquettes for fuel or organic manure.

(iii) The deduction allowable under this section is an amount equal to the whole of such profits and gains for a period of five consecutive assessment years beginning with the assessment year relevant to the previous year in which the business commences.

3.8 Deduction in respect of employment of new workmen [Section 80JJAA]

(i) Section 80JJAA provides that, with effect from A.Y.2014-15, the deduction thereunder shall be available to an Indian Company deriving profits from manufacture of goods in its factory.

(ii) Where the gross total income of such Indian company includes any profits and gains derived from the manufacture of goods in a factory, it would be allowed a deduction of an amount equal to 30% of additional wages paid to the new regular workmen employed by the assessee in such factory, in the previous year, for three assessment years including the assessment year relevant to the previous year in which such employment is provided.

(iii) However, the deduction shall not be available if the factory is hived off or transferred from another existing entity or acquired by the assessee-company as a result of amalgamation with another company.

(iii) The following conditions have to be fulfilled in order to be eligible for the deduction provided in the section:

- (1) The assessee should be an Indian company.
- (2) Its gross total income should include profits and gains from manufacture of goods in a factory.
- (3) The factory should not be hived off or transferred from another existing entity or acquired by the assessee-company as a result of amalgamation with another company.
- (4) The assessee should furnish along with the return of income a report of a chartered accountant in the prescribed form giving the prescribed particulars.
- (5) In case of a new factory, in the first previous year, it employs more than 100 regular workmen. Additional wages would mean the wages paid to new regular workmen in excess of 100 workmen employed during the previous year.
- (6) In the case of an existing factory, the number of regular workmen employed during the relevant previous year is equal to at least 110% of the regular workmen employed in such factory as on the last day of the preceding year. If not, the additional wages would be Nil.

(iv) **Meaning of "Regular Workmen"** - The section defines regular workmen as not including:

- (1) a casual workman; or
- (2) a workman employed through contract labour; or
- (3) any other workman employed for a period of less than 300 days during the previous year.

3.9 Deduction in respect of certain income of Offshore Banking Units and International Financial Services Centre [Section 80LA]

(i) This section is applicable to the following assessees -

- (a) a scheduled bank having an Offshore Banking Unit in a SEZ; or
- (b) any bank, incorporated by or under the laws of a country outside India, and having an Offshore Banking Unit in a SEZ; or
- (c) a Unit of an International Financial Services Centre (IFSC).

(ii) The deduction will be allowed on account of the following income included in the gross total income of such assessees -

- (a) income from an Offshore Banking Unit in a SEZ; or
- (b) income from the business referred to in section 6(1) of the Banking Regulation Act, 1949, with -
 - (1) an undertaking located in a SEZ or
 - (2) any other undertaking which develops, develops and operates or develops, operates and maintains a SEZ; or
- (c) income from any Unit of the IFSC from its business for which it has been approved for setting up in such a Centre in a SEZ.
- (iii) The deduction allowable from such income is -
 - (a) 100% of such income for 5 consecutive assessment years beginning with the assessment year relevant to the previous year in which -
 - (1) the permission under section 23(1)(a) of the Banking Regulation Act, 1949 was obtained; or
 - (2) the permission or registration under the SEBI Act, 1992 was obtained; or
 - (3) the permission or registration under any other relevant law was obtained.
 - (b) Thereafter, 50% of such income for the next 5 consecutive assessment years.
- (iv) The following conditions have to be fulfilled for claiming deduction under this section-
 - (a) The report of a Chartered Accountant in the prescribed form certifying that the deduction has been correctly claimed in accordance with the provisions of this section, should be submitted along with the return of income.
 - (b) A copy of the permission obtained under section 23(1)(a) of the Banking Regulation Act, 1949 should also be furnished along with the return of income.

3.10 Deduction in respect of income of co-operative societies [Section 80P]

- (i) Under this section, certain specified income of a co-operative society would be allowed as a deduction, provided such income is included in the gross total income of the society.
- (ii) The following items of income would be fully allowed as deduction -
 - (1) income from the business of banking or providing credit facilities to its members; or
 - (2) income from a cottage industry; or
 - (3) income from the marketing of the agricultural produce grown by its members; or
 - (4) income derived from the purchase of agricultural implements, seeds, livestock or other articles intended for agriculture or for the purpose of supplying them to its members; or
 - (5) income from processing without the aid of power, of the agricultural produce of its members; or
 - (6) the business income of labour co-operative societies and societies engaged in fishing and other allied pursuits, such as catching, curing, processing, preserving, storing and marketing

of fish or the purchase of materials and equipment in connection therewith for the purpose of supplying them to their members. However, the exemption in respect of this type of income will be available only in the case of those co-operative societies which, under their rules and by-laws, restrict the voting rights to members who constitute the labour force or who actually carry on the fishing or other allied activities, the co-operative credit societies which provide financial assistance to the society and the State Government.

(iii) This section also provides that in case of a co-operative society being a primary society engaged in supplying milk, oilseeds, fruits or vegetables raised by its members to a federal milk co-operative society or the Government or a local authority or a Government company or a corporation established by or under a Central, State or Provincial Act (being a company or corporation engaged in supplying milk, oilseeds, fruits or vegetables, as the case may be, to the public), the whole of the amount of profits and gains of such business would be exempt from tax by way of deduction from the gross total income of the co-operative society.

(iv) Further, a co-operative society which is engaged in activities other than or in addition to those mentioned above, is not liable to pay any income tax on the first ₹ 50,000 of its business income arising from other activities. The limit is ₹ 1,00,000 in the case of consumer co-operative societies. Thus, a co-operative society which is engaged in any business activity besides any of the business activities mentioned in (1) to (6) of (ii) above would not be liable to pay any income tax on the whole of its income derived from any of the activities specified and also on the first ₹ 1,00,000 or ₹ 50,000, as the case may be, of its business income from activities other than those aforesaid.

(v) Any income arising to a co-operative society by way of any interest and dividends derived from its investments with any other co-operative society is deductible in full under this section.

(vi) Any income arising to a co-operative society by way of 'Interest on securities' or 'Income from house property' (chargeable under section 22) is fully deductible under this section where the gross total income of the co-operative society does not exceed ₹ 20,000 and it is not a housing society or an urban consumer's society or a society carrying on transport business or a society engaged in the performance of any manufacturing operations with the aid of power. Thus, a majority of small co-operative societies would not have to pay any income-tax.

(vii) The income derived by a co-operative society from the letting out of godowns or warehouses for storage, processing or facilitating the marketing of commodities is fully allowable as deduction.

(viii) Further, where the co-operative society is also entitled to the deduction available under section 80-IA, the deduction under this section shall be allowed with reference to the gross total income as reduced by the deduction allowable under section 80-IA.

(ix) The benefit under section 80P has been withdrawn in respect of all co-operative banks, other than primary agricultural credit societies (i.e. as defined in Part V of the Banking Regulation Act, 1949) and primary co-operative agricultural and rural development banks (i.e. societies having its area of operation confined to a taluk and the principal object of which is to provide for long-term credit for agricultural and rural development activities). This is for the purpose of treating co-operative banks at par with other commercial banks, which do not enjoy

similar tax benefits. The scope of the definition of 'income' as given in section 2(24) has accordingly been widened to include within its ambit, the profits and gains of any business of banking (including providing credit facilities) carried on by a co-operative society with its members.

(x) Regional Rural Banks not eligible for deduction under section 80P: The CBDT has, through Circular No. 6/2010 dated 20.9.2010, reiterated that Regional Rural Banks are not eligible for deduction under section 80P of the Income-tax Act, 1961 from the assessment year 2007-08 onwards. It has also been clarified that the Circular No. 319 dated 11-1-1982 deeming any Regional Rural Bank to be cooperative society stands withdrawn for application with effect from A.Y.2007-08.

This is consequent to the amendment in section 80P by the Finance Act, 2006, providing specifically that w.e.f. 1-4-2007, the provisions of section 80P will not apply to any co-operative bank other than a Primary Agricultural Credit Society or a Primary Cooperative Agricultural and Rural Development Bank. The same has been further clarified by this circular.

3.11 Deduction in respect of royalty income, etc., of authors of certain books other than text books [Section 80QQB]

(i) Under section 80QQB, deduction of up to a maximum ₹ 3,00,000 is allowed to an individual resident in India in respect of income derived as author i.e., the deduction shall be the income derived as author or ₹ 3,00,000, whichever is less.

(ii) This income may be received either by way of a lumpsum consideration for the assignment or grant of any of his interests in the copyright of any book.

(iii) Such book should be a work of literary, artistic or scientific nature, or of royalties or copyright fees (whether receivable in lump sum or otherwise) in respect of such book.

(iv) However, this deduction shall not be available in respect of royalty income from textbook for schools, guides, commentaries, newspapers, journals, pamphlets and other publications of similar nature.

(v) Where an assessee claims deduction under this section, no deduction in respect of the same income may be claimed under any other provision of the Income-tax Act, 1961.

(vi) For the purpose of calculating the deduction under this section, the amount of eligible income (before allowing expenses attributable to such income) shall not exceed 15% of the value of the books sold during the previous year. However, this condition is not applicable where the royalty or copyright fees is receivable in lump sum in lieu of all rights of the author in the book.

(vii) For claiming the deduction, the assessee shall have to furnish a certificate in the prescribed manner in the prescribed format, duly verified by the person responsible for making such payment, setting forth such particulars as may be prescribed.

(viii) Where the assessee earns any income from any source outside India, he should bring such income into India in convertible foreign exchange within a period of six months from the end of the previous year in which such income is earned or within such further period as the competent authority may allow in this behalf for the purpose of claiming deduction under this section.

(ix) The competent authority shall mean the Reserve Bank of India or such other authority as is authorised under any law for the time being in force for regulating payments and dealings in foreign exchange.

3.12 Deduction in respect of royalty on patents [Section 80RRB]

(i) This section allows deduction to a resident individual in respect of income by way of royalty of a patent registered on or after 1.4.03 up to an amount of ₹ 3 lakhs.

(ii) This deduction shall be available only to a resident individual who is registered as the true and first inventor in respect of an invention under the Patents Act, 1970, including the co-owner of the patent.

(iii) This exemption shall be restricted to the royalty income including consideration for transfer of rights in the patent or for providing information for working or use thereof in India.

(iv) The exemption shall not be available on any consideration for sale of product manufactured with the use of the patented process or patented article for commercial use.

(v) In respect of any such income which is earned from sources outside India, the deduction shall be restricted to such sum as is brought to India in convertible foreign exchange within a period of 6 months or extended period as is allowed by the competent authority (Reserve Bank of India). For claiming this deduction the assessee shall be required to furnish a certificate in the prescribed form signed by the prescribed authority, alongwith the return of income.

(vi) No deduction in respect of such income will be allowed under any other provision of the Income-tax Act, 1961.

(vii) Where the patent is subsequently revoked or the name of the assessee was excluded from the patents register as patentee in respect of that patent, the deduction allowed during the period shall be deemed to have been wrongly allowed and the assessment shall be rectified under the provisions of section 155.

(viii) The period of 4 years for rectification shall be reckoned from the end of the previous year in which the order of the revocation of the patent is passed.

3.13 Deduction in respect of interest on deposits in savings accounts [Section 80TTA]

(i) Section 80TTA provides that in case the gross total income of an assessee, being an individual or a Hindu Undivided Family, includes any income by way of an interest on deposits in a saving account (not being time deposits, which are deposits repayable on expiry of fixed periods), deduction up to ₹ 10,000 in aggregate shall be allowed while computing the total income of such assessee. Such deduction shall be allowed in case the saving account is maintained with:

(1) a banking company to which the Banking Regulation Act, 1949, applies (including any bank or banking institution referred to in section 51 of that Act);

(2) a co-operative society engaged in carrying on the business of banking (including a co-operative land mortgage bank or a co-operative land development bank); or

(3) a post office.

(ii) However, if the aforesaid income is derived from any deposit in a savings account held by, or on behalf of, a firm, an AOP/BOI, no deduction shall be allowed in respect of such income in computing the total income of any partner of the firm or any member of the AOP or any individual of the BOI.

(iii) In effect, the deduction under this section shall be allowed only in respect of the income derived in form of the interest on the saving bank deposit (other than time deposits) made by the individual or Hindu Undivided Family directly.

Illustration 14

Mr. Gurnam, aged 62 years, earned professional income (computed) of ₹ 5,50,000 during the year ended 31.03.2015. He has earned interest of ₹ 14,500 on the saving bank account with State Bank of India during the year. Compute the total income of Mr. Gurnam for the assessment year 2015-16 from the following particulars:

- (i) *Life insurance premium paid to Birla Sunlife Insurance in cash amounting to ₹ 25,000 for insurance of life of his dependent parents. The insurance policy was taken on 15.07.2012 and the sum assured on life of his dependent parents is ₹ 1,25,000.*
- (ii) *Life insurance premium of ₹ 25,000 paid for the insurance of life of his major son who is not dependent on him. The sum assured on life of his son is ₹ 1,75,000 and the life insurance policy was taken on 18.04.2011.*
- (iii) *Life insurance premium paid by cheque of ₹ 22,500 for insurance of his life. The insurance policy was taken on 08.09.2012 and the sum assured is ₹ 2,00,000.*
- (iv) *Premium of ₹ 16,000 paid by cheque for health insurance of self and his wife.*
- (v) *₹ 1,500 paid in cash for his health check-up and ₹ 4,500 paid in cheque for health check-up for his parents.*
- (vi) *Paid interest of ₹ 6,500 on loan taken from bank for MBA course pursued by his daughter.*
- (vii) *A sum of ₹ 15,000 donated in cash to an institution approved for purpose of section 80G for promoting family planning.*

Solution

Computation of total income of Mr. Gurnam for the Assessment Year 2015-16

Particulars	₹	₹	₹
Professional Income (computed)			5,50,000
Interest on saving bank deposit			<u>14,500</u>
Gross Total Income			5,64,500

Less: Deduction under Chapter VIA			
Under section 80C (See Note 1)			
Life insurance premium paid for life insurance of:			
- major son	25,000		
- self ₹ 22,500 restricted to 10% of ₹ 2,00,000	<u>20,000</u>	45,000	
Under section 80D (See Note 3)			
Premium paid for health insurance of self and wife by cheque	16,000		
Payment made for health check-up:			
- Self ₹ 1,500			
- His Parents ₹ <u>4,500</u>			
₹ <u>6,000</u> restricted to	<u>5,000</u>	21,000	
Under section 80E			
For payment of interest on loan taken from bank for MBA course of his daughter		6,500	
Under section 80TTA (See Note 5)			
Interest on savings bank account ₹ 14,500 restricted to		<u>10,000</u>	<u>82,500</u>
Total Income			<u>4,82,000</u>

Notes:

- (1) As per section 80C, no deduction is allowed in respect of premium paid for life insurance of parents whether they are dependent or not. Therefore, no deduction is allowable in respect of ₹ 15,000 paid as premium for life insurance of dependent parents of Mr. Gurnam.

In respect of insurance policy issued after 01.04.2012, deduction shall be allowed for life insurance premium paid only to the extent of 10% of sum assured. In case the insurance policy is issued before 01.04.2012, deduction of premium paid on life insurance policy shall be allowed up to 20% of sum assured.

Therefore, in the present case, deduction of ₹ 25,000 is allowable in respect of life insurance of Mr. Gurnam's son since the insurance policy was issued before 01.04.2012 and the premium amount is less than 20% of ₹ 1,75,000. However, in respect of premium paid for life insurance policy of Mr. Gurnam himself, deduction is allowable only up to 10% of ₹ 2,00,000 since, the policy was issued after 01.04.2012 and the premium amount exceeds 10% of sum assured.

- (2) As per section 80D, in case the premium is paid in respect of health of a person specified therein and for health check-up of such person who is a senior citizen i.e., aged 60 years or more, deduction shall be allowed up to ₹ 20,000. Further, deduction up to ₹ 5,000 in aggregate shall be allowed in respect of health check-up of self, spouse, children and parents. In order to claim deduction under section 80D, the payment for health-check up can be made in any mode including cash. However, the payment for health insurance premium has to be paid in any mode other than cash.

Therefore, in the present case, deduction of ₹ 16,000 is allowed in respect of premium paid for health insurance of self and wife, since Mr. Gurnam is a senior citizen and the payment is made by cheque. Also, the aggregate value of premium paid for health insurance and the payment for health check-up is ₹ 17,500 (₹ 16,000 + ₹ 1,500), which is less than ₹ 20,000. Further, deduction up to a maximum of ₹ 5,000 is allowable in respect of health check-up of self and his parents. This implies that ₹ 3,500 is allowable for health check-up of parents which falls within the additional limit of ₹ 20,000 for mediclaim premium and expenditure on preventive health check-up of parents.

- (3) No deduction shall be allowed under section 80G in case the donation is made in cash of a sum exceeding ₹ 10,000. Therefore, no deduction is allowed under section 80G in respect of donation made to institution approved therein.
- (4) As per section 80TTA, deduction shall be allowed from the gross total income of an individual or Hindu Undivided Family in respect of income by way of interest on deposit in the savings account included in the assessee's gross total income, subject to a maximum of ₹ 10,000. Therefore, a deduction of ₹ 10,000 is allowable from the gross total income of Mr. Gurnam, though the interest from savings bank account is ₹ 14,500.

4. Other Deductions

Deduction in the case of a person with disability [Section 80U]

- (i) Section 80U harmonizes the criteria for defining disability as existing under the Income-tax Rules with the criteria prescribed under the Persons with Disability (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.
- (ii) This section is applicable to a resident individual, who, at any time during the previous year, is certified by the medical authority to be a person with disability. A deduction of ₹ 50,000 in respect of a person with disability and ₹ 1,00,000 in respect of a person with severe disability (having disability over 80%) is allowable under this section.
- (iii) The benefit of deduction under this section has also been extended to persons suffering from autism, cerebral palsy and multiple disabilities.
- (iv) The assessee claiming a deduction under this section shall furnish a copy of the certificate issued by the medical authority in the form and manner, as may be prescribed, along with the return of income under section 139, in respect of the assessment year for which the deduction is claimed.
- (v) Where the condition of disability requires reassessment, a fresh certificate from the medical authority shall have to be obtained after the expiry of the period mentioned on the original certificate in order to continue to claim the deduction.